



Department of Defense INSTRUCTION

NUMBER 5230.24
August 23, 2012

USD(AT&L)

SUBJECT: Distribution Statements on Technical Documents

References: See Enclosure 1

1. PURPOSE. This Instruction:

a. Reissues DoD Directive (DoDD) 5230.24 (Reference (a)) as a DoD Instruction (DoDI) in accordance with the authority in DoDD 5134.01 (Reference (b)) and pursuant to section 133 of title 10, United States Code (U.S.C.) (Reference (c)) to establish DoD policies, assign responsibilities, and prescribe procedures for marking and managing technical documents, including research, development, engineering, test, sustainment, and logistics information, to denote the extent to which they are available for secondary distribution, release, and dissemination without additional approvals or authorizations.

b. Establishes a standard framework and markings for managing, sharing, safeguarding, and disseminating technical documents in accordance with policy and law.

c. Facilitates implementation of DoDD 5230.25 (Reference (d)) by enabling document originators to signify to what extent technical documents must be controlled in accordance with procedures of that Directive.

2. APPLICABILITY. This Instruction:

a. Applies to:

(1) The OSD, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereinafter referred to collectively as the "DoD Components").

(2) Newly created, revised, or previously unmarked classified and unclassified technical documents generated or managed by all DoD-funded research, development, test, and evaluation (RDT&E) programs, which are the basis of the DoD Scientific and Technical Information

Program described in DoDD 3200.12 (Reference (e)). It also applies to newly created engineering drawings, engineering data and associated lists, standards, specifications, technical manuals, technical reports, technical orders, blueprints, plans, instructions, computer software and documentation, catalog-item identifications, data sets, studies and analyses, and other technical information that can be used or be adapted for use to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment. The data may be in tangible form, such as a model, prototype, blueprint, photograph, plan, instruction, or an operating manual, or may be intangible, such as a technical service or oral, auditory, or visual descriptions.

b. Does not apply to technical documents categorized as cryptographic and communications security, communications and electronic intelligence, and such other categories that may be designated by the Director, National Security Agency/Chief, Central Security Service.

c. May not be used by the DoD Components as authority to deny information to Congress, or to any Federal, State, or local governmental agency that requires such data for regulatory or other official governmental purposes. When the information is otherwise subject to DoD distribution controls, the recipient shall be so notified.

d. Does not provide authority to withhold from public disclosure unclassified information regarding DoD operations, policies, activities, or programs, including the costs and evaluations of performance and reliability of military and space equipment, or any other information not exempt from release in accordance with DoDD 5400.07 (Reference (f)).

e. Does not establish non-recurring charges that may apply to recipients of DoD technical data. Such charges are determined in accordance with DoDD 2140.2 (Reference (g)).

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy that the DoD shall pursue a coordinated and comprehensive program to promote information sharing to the maximum extent possible to facilitate efficient use of resources consistent with protection requirements as specified in national and DoD information security policies, competitive procurement, and law as specified in this Instruction.

5. RESPONSIBILITIES. See Enclosure 2.

6. PROCEDURES. See Enclosure 3.

7. RELEASABILITY. UNLIMITED. This Instruction is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Instruction:

a. Is effective August 23, 2012.

b. Must be reissued, cancelled, or certified current within 5 years of its publication in accordance with DoD Instruction 5025.01 (Reference (h)). If not, it will expire effective August 23, 2022 and be removed from the DoD Issuances Website.



Frank Kendall
Under Secretary of Defense for
Acquisition, Technology, and Logistics

Enclosures

1. References
2. Responsibilities
3. Procedures
4. Distribution Statements for Use on Technical Documents
5. Third Party-Imposed Distribution Statements

Glossary

TABLE OF CONTENTS

ENCLOSURE 1: REFERENCES.....6

ENCLOSURE 2: RESPONSIBILITIES.....8

 ASSISTANT SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING
 (ASD(R&E)).....8

 ADMINISTRATOR, DEFENSE TECHNICAL INFORMATION CENTER (DTIC).....8

 UNDER SECRETARY OF DEFENSE FOR POLICY (USD(P)).....8

 UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE (USD(I)).....8

 DIRECTOR OF ADMINISTRATION AND MANAGEMENT (DA&M)8

 GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (GC, DoD).....9

 HEADS OF THE DoD COMPONENTS9

ENCLOSURE 3: PROCEDURES.....10

ENCLOSURE 4: DISTRIBUTION STATEMENTS FOR USE ON TECHNICAL
DOCUMENTS.....14

 GENERAL.....14

 DISTRIBUTION STATEMENTS AND NOTICES14

ENCLOSURE 5: THIRD PARTY-IMPOSED DISTRIBUTION STATEMENTS.....22

 GENERAL.....22

 RESTRICTIVE MARKINGS.....22

 APPLYING THE DISTRIBUTION STATEMENT24

GLOSSARY26

 PART I: ABBREVIATIONS AND ACRONYMS26

 PART II: DEFINITIONS.....27

TABLES

 1. Reasons to Assign Distribution Statement B.....15

 2. Reasons to Assign Distribution Statement C.....18

 3. Reasons to Assign Distribution Statement D.....18

 4. Reasons to Assign Distribution Statement E.....19

 5. Distribution Statements and Their Corresponding Reasons for Use21

FIGURES

1. Export Control Warning Label	20
2. Notice of Rights in Technical Data.....	23

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5230.24, "Distribution Statements on Technical Documents," March 18, 1987 (hereby cancelled)
- (b) DoD Directive 5134.01, "Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L))," December 9, 2005
- (c) Sections 133 and 2371 of title 10, United States Code (as amended)
- (d) DoD Directive 5230.25, "Withholding of Unclassified Technical Data from Public Disclosure," November 6, 1984
- (e) DoD Directive 3200.12, "DoD Scientific and Technical Information (STI) Program (STIP)," February 11, 1998
- (f) DoD Directive 5400.07, "DoD Freedom of Information Act (FOIA) Program," January 2, 2008
- (g) DoD Directive 2140.2, "Recoupment of Nonrecurring Costs (NCs) on Sales of U.S. Items," January 13, 1993
- (h) DoD Instruction 5025.01, "DoD Directives Program," October 28, 2007
- (i) DoD Directive 5143.01, "Under Secretary of Defense for Intelligence (USD(I))," November 23, 2005
- (j) DoD Instruction 5200.01, "DoD Information Security Program and Protection of Sensitive Compartmented Information," October 9, 2008
- (k) DoD Directive 5230.09, "Clearance of DoD Information for Public Release," August 22, 2008
- (l) DoD Instruction 5230.29, "Security and Policy Review of DoD Information for Public Release," January 8, 2009
- (m) DoD Manual 5200.01-V2, "DoD Information Security Program: Marking of Classified Information," February 24, 2012
- (n) DoD Manual 5200.01-V1, "DoD Information Security Program: Overview, Classification, and Declassification," February 24, 2012
- (o) DoD Instruction 3200.14, "Principles and Operational Parameters of the DoD Scientific and Technical Information Program," May 13, 1997
- (p) DoD Instruction 5200.39, "Critical Program Information (CPI) Protection Within the Department of Defense," July 16, 2008
- (q) Parts 120-130 of title 22, Code of Federal Regulations (also known as the "International Traffic in Arms Regulations")
- (r) Parts 730-774 of title 15, Code of Federal Regulations (also known as the "Export Administration Regulations")
- (s) Subparts 203, 227 and 252 of title 48, Code of Federal Regulations
- (t) DoD Directive 5122.05, "Assistant Secretary of Defense for Public Affairs (ASD(PA))," September 5, 2008
- (u) Subpart 800.209 of title 31, Code of Federal Regulations
- (v) Chapter 15 of title 50, United States Code
- (w) Executive Order 13526, "Classified National Security Information," December 29, 2009
- (x) DoD Directive 5205.02E, "DoD Operations Security (OPSEC) Program," June 20, 2012

- (y) Section 205 of title 35, United States Code
- (z) Public Law 104–294, “Economic Espionage Act of 1996,” October 11, 1996
- (aa) Section 1498(a) of title 28, United States Code, as amended
- (ab) Title 17, United States Code, as amended
- (ac) Section 1905 of title 18, United States Code, as amended
- (ad) Sections 638 and 3710a of title 15, United States Code, as amended
- (ae) Part 311.8 of title 32, Code of Federal Regulations
- (af) Public Law 107-296, “Homeland Security Act of 2002,” November 25, 2002
- (ag) Sections 2751 and 2778(j)(4)(A) of title 22, United States Code
- (ah) Executive Order 13556, “Controlled Unclassified Information,” November 4, 2010
- (ai) Joint Publication 1-02, “Department of Defense Dictionary of Military and Associated Terms,” current edition

ENCLOSURE 2

RESPONSIBILITIES

1. ASSISTANT SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING (ASD(R&E)). The ASD(R&E), under the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall monitor compliance with this Instruction within the DoD Components and take such actions that may be required to ensure consistent and appropriate implementation and control of information within the scope of this Instruction.

2. ADMINISTRATOR, DEFENSE TECHNICAL INFORMATION CENTER (DTIC). The Administrator, DTIC, under the authority, direction, and control of the ASD(R&E), shall:
 - a. Act as DoD Scientific and Technical Information Program Manager.

 - b. Maintain a permanent record of controlling DoD office decisions for classification and distribution of scientific and technical information.

3. UNDER SECRETARY OF DEFENSE FOR POLICY (USD(P)). The USD(P) shall prepare and issue, as required, policy and guidance regarding foreign disclosure and control of information in international programs within the scope of this Instruction.

4. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE (USD(I)). The USD(I), who has oversight of the DoD information security policy in accordance with DoDD 5143.01 (Reference (i)), shall integrate this policy into the DoD Information Security Program established by DoDI 5200.01 (Reference (j)).

5. DIRECTOR OF ADMINISTRATION AND MANAGEMENT (DA&M). The DA&M shall:
 - a. Issue policy to ensure that technical material submitted for public release clearance in accordance with DoDD 5230.09 (Reference (k)) is properly reviewed by the Washington Headquarters Services Office of Security Review (OSR) or component public affairs personnel to determine whether the information is appropriate for Distribution Statement A (described in Enclosure 4 of this Instruction).

 - b. Process appeals when public release denial is based upon this Instruction in accordance with DoDI 5230.29 (Reference (l)).

6. GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (GC, DoD). The GC, DoD, shall assist in carrying out this Instruction by advising the DoD Components regarding the statutory and regulatory requirements governing the export or other dissemination of technical data.

7. HEADS OF THE DoD COMPONENTS. The Heads of the DoD Components shall:

a. Ensure that this Instruction is implemented across their respective Components in a uniform, consistent manner.

b. Ensure that the controlling DoD office that created or sponsored the work exercises its inherently governmental responsibility to determine the appropriate marking in accordance with this Instruction, Reference (k), DoD Manual 5200.01-V2 (Reference (m)), and DoD Manual 5200.01-V1 (Reference (n)), and that all technical documents, including research, development, engineering, test, sustainment, and logistics information, regardless of media or form, are marked correctly.

c. Establish and maintain an active education and training program to provide a basic understanding of distribution statement markings and to inform personnel of their responsibilities for the proper handling and protection of documents so marked. As appropriate, such education and training may be combined with the education and training required by References (j) and (n).

d. Ensure that all records are maintained and managed in accordance with National Archives and Records Administration approved dispositions to ensure proper maintenance, use, accessibility, and preservation, regardless of format or medium.

ENCLOSURE 3

PROCEDURES

1. All DoD Components generating or responsible for technical documents shall determine their distribution availability and mark them appropriately before primary distribution. Distribution statements shall be used in addition to applicable classification and dissemination control markings specified in Reference (n).
2. DoD distribution statement markings shall not be required on technical proposals or similar documents submitted by contractors seeking DoD funds or contracts; however, markings prescribed by applicable acquisition regulations shall apply.
3. Distribution statements assigned to technical documents by the controlling DoD office that sponsored the work are used to control the secondary distribution of those documents through use of the DoD-wide “Registration System for Scientific and Technical Information,” administered by DTIC, in accordance with DoDI 3200.14 (Reference (o)), and use of critical program information (CPI) protection in accordance with DoDI 5200.39 (Reference (p)). Operations and maintenance technical data supporting sustainment, logistics, maintenance, repair, supply, and testing that are subject to the restrictions of this Instruction shall be maintained, disseminated, and controlled by the cognizant heads of military logistics and product centers. Unless otherwise authorized by contract or agreement, further distribution of information subject to the restrictions identified in this Instruction by non-Government entities or individuals is strictly prohibited.
4. All newly created, revised, or previously unmarked classified and unclassified DoD technical documents shall be assigned Distribution Statement A, B, C, D, E, or F as described in Enclosure 4 of this Instruction. Distribution Statement “X” is superseded by issuance of this Instruction. Subsequent dissemination of formerly Distribution Statement X documents shall display Distribution Statement C, with export control as the reason and shall be marked as directed in paragraph 8.a of Enclosure 3, unless changed by the controlling DoD office.
 - a. Selection of the appropriate distribution statement is based on a number of considerations, including, but not limited to:
 - (1) Criteria specified in Enclosure 3 of Reference (l).
 - (2) Export controls in accordance with Reference (d); parts 120-130 of title 22, Code of Federal Regulations (CFR) (also known and hereinafter referred to as the “International Traffic in Arms Regulations” (ITAR)) (Reference (q)); and parts 730-774 of title 15, CFR (also known and hereinafter referred to as the “Export Administration Regulations” (EAR)) (Reference (r)).
 - (3) Intellectual property and data rights licenses for contract deliverables in subpart 227.71 of title 48, CFR (Reference (s)).

(4) CPI protection in accordance with Reference (p).

b. Multiple reasons for control may apply and may be listed in Distribution Statements B, C, D, and E.

5. Once cleared for public release, if the documents contain technical information in accordance with this Instruction, by definition they can be marked Distribution Statement A. Technical documents not approved for public release shall receive a Distribution Statement to maximize their effectiveness as a non-public document. Publication release shall be made as follows:

a. Any official DoD document meeting the publication conditions of References (k) and (l) shall be cleared for public release by OSR.

b. Official DoD documents, including, but not limited to, audio-visual materials or press releases which meet the criteria in DoDD 5122.05 (Reference (t)), shall be approved for public release by the Assistant Secretary of Defense for Public Affairs.

c. Documents that do not meet the intent of References (k), (l), and (t) may be cleared for public release at the lowest prudent level.

6. Classified DoD technical documents:

a. Shall be marked in accordance with Reference (n) and assigned Distribution Statement B, C, D, E, or F. The distribution statement assigned to a classified document shall be retained on the document after its declassification or until changed or removed by the controlling DoD office.

b. That are declassified and have no assigned distribution statement shall be handled as Distribution Statement E (equivalent to For Official Use Only (FOUO)) as described in Reference (n) until changed by the controlling DoD office.

7. All newly generated technical documents delivered to the U.S. Government that include a contractor or other third party-imposed intellectual property marking as described in Enclosure 5 of this Instruction shall be conspicuously and legibly marked with the appropriate legends as prescribed by and controlled pursuant to subpart 252.227-7013 of Reference (s). The type of U.S. Government data rights licenses shall be considered when assigning distribution statements.

8. For each newly generated technical document, the controlling DoD office shall determine whether the document contains export-controlled technical data; Reference (d) provides guidance for making this determination. Additional guidance may be obtained from the component Foreign Disclosure Officer.

a. All documents that are found to contain export-controlled technical data shall be marked with the export control warning contained in paragraph 2.g. of Enclosure 4 of this Instruction. Any document so marked must also be assigned Distribution Statement B, C, D, E, or F and specify "Export Controlled" as a reason for limitation. These documents must also include the

Warning Statement and Notice specified in Reference (d). Such documents shall be disseminated only to entities qualified to receive export-controlled technical data.

b. Export-controlled items marked Distribution Statement C or D shall not be disseminated outside the U.S. Government or to U.S. Government contractors without first verifying the recipient's eligibility and authority to receive export-controlled information by verifying they have a current, valid DD Form 2345 in accordance with Reference (d).

9. Producing organizations and controlling offices shall mark technical documents in preliminary or working draft form with a temporary notice or distribution statement pending a proper security classification and distribution statement review as required by this Instruction.

10. Distribution statements shall remain in effect until changed or removed by the controlling DoD office. Removal of or tampering with control markings by unauthorized personnel is strictly prohibited.

11. Each controlling DoD office shall establish and maintain a procedure to review active and non-archived technical documents for which it is responsible to increase their availability when conditions permit. The controlling DoD office shall obtain public release determinations in accordance with References (k) and (l). If public release clearance is obtained, the controlling DoD office shall assign Distribution Statement A, cancel any other distribution statement, and notify all known holders of the change.

12. If a request is received for a technical document marked with a superseded distribution statement, the document shall be reviewed by the controlling office and shall be assigned an appropriate distribution statement in accordance with this Instruction.

13. The controlling DoD office shall notify the DTIC, other appropriate repositories, and other known holders promptly, so they can have an authoritative record of controlling DoD office decisions regarding classification and distribution, when:

a. The controlling office address changes.

b. The controlling office is redesignated.

c. Classification markings, Government data rights, distribution statements, or export control statements are changed or removed.

14. The distribution statement shall be displayed conspicuously on all technical documents regardless of media or format. For standard written or printed material, the distribution statement shall appear on the front cover, title page, and Standard Form (SF) 298, "Report Documentation Page," where applicable. The SF 298 is available at <http://www.dtic.mil/whs/directives/infomgt/forms/index.htm>. If the technical information is not prepared in paper form but is prepared digitally or is in any medium that does not have a cover or title page, the applicable distribution statement shall be affixed to all physical and digital items by other means in a conspicuous position for ready recognition.

15. When possible or appropriate, those parts of the document that contain controlled unclassified information shall be prepared as an attachment, addendum, annex, enclosure, or similar section to allow separate dissemination of the basic document at the lowest level of classification and to the widest audience.
16. The metadata of the document (e.g., title, abstract, keywords) shall be written for the widest possible distribution. When practical the metadata shall be written in such a way that the information is unclassified and cleared by OSR as Distribution Statement A.
17. Unclassified documents marked with Distribution Statements B, C, D, E, or F shall be handled using the same standard as FOUO material in accordance with Reference (n), and shall be destroyed by any method that will prevent disclosure of contents or reconstruction of the document. When local circumstances or experience indicates that this destruction method is not sufficiently protective of the information, local authorities may prescribe other methods but must balance the additional expense against the degree of sensitivity.
18. All records shall be maintained and managed in accordance with National Archives and Records Administration approved dispositions to ensure proper maintenance, use, accessibility, and preservation, regardless of format or medium.

ENCLOSURE 4

DISTRIBUTION STATEMENTS FOR USE ON TECHNICAL DOCUMENTS

1. GENERAL. Distribution statements shall be shown on the title page, front cover, and SF 298, where applicable. Portions or pages of a document or compilation may have different distribution statements that would govern their distribution if separated from the main document. The most restrictive distribution on its parts applies to the document as a whole.

a. The wording of the distribution statements specified by this Instruction may not be modified to accommodate additional distribution, such as distribution to foreign governments. Such release is outside the scope of secondary DoD distribution. For other authorized markings or notices that appear on a document in accordance with a statute, a regulation, or other policy (e.g., Defense Federal Acquisition Regulations Supplement (DFARS) legends, North Atlantic Treaty Organization markings), "REL TO" (releasable to) may be used to inform distribution.

b. Distribution Statements B, C, D, and E are expressed in a standard format comprising four components presented in the following order:

- (1) Authorized audience.
- (2) Reason for control.
- (3) Date of determination.
- (4) Controlling office.

c. More than one reason or justification for non-release of controlled technical information may apply. Therefore, more than one reason may be used in a distribution statement. In these instances, the most restrictive reason shall govern the distribution determination.

2. DISTRIBUTION STATEMENTS AND NOTICES. The distribution statements and notices described in this section are authorized for use on DoD technical documents. A matrix of Distribution Statements and corresponding reasons appears in Table 5.

a. "DISTRIBUTION STATEMENT A. Approved for public release."

(1) This statement may be used only on unclassified technical documents that have been cleared for public release by competent authority in accordance with References (k) and (l). Technical documents resulting from contracted fundamental research efforts will normally be assigned Distribution Statement A, except for those rare and exceptional circumstances where there is a high likelihood of disclosing performance characteristics of military systems or of manufacturing technologies that are unique and critical to defense, and agreement on this situation has been recorded in the contract or grant.

(2) Technical documents with this statement may be made available or sold to the public and foreign nationals, companies, and governments, including adversary governments, and may be exported.

(3) This statement shall not be used on classified technical documents or documents containing export-controlled technical data as provided in Reference (d).

(4) This statement may not be used on technical documents that formerly were classified unless such documents are cleared for public release in accordance with References (k) and (l).

b. "DISTRIBUTION STATEMENT B. Distribution authorized to U.S. Government agencies only (fill in reason) (date of determination). Other requests for this document shall be referred to (insert controlling DoD office)."

(1) This statement may be used on unclassified and classified technical documents.

(2) Reasons for assigning Distribution Statement B are listed in Table 1.

Table 1. Reasons to Assign Distribution Statement B

Administrative or Operational Use	To protect technical or operational data or information from automatic dissemination under the International Exchange Program or by other means. This protection covers publications required solely for official use or strictly for administrative or operational purposes including data or information intended for the sole purpose of operating and sustaining DoD weapon systems. This statement may apply to manuals, pamphlets, weapon system specifications, technical orders, technical reports, and other publications or technical data containing valuable technical or operational information.
Contractor Performance Evaluation	To protect information in management reviews, records of contract performance evaluation, or other advisory documents evaluating programs of contractors. Assigned pursuant to subparts 203.104-4 of Reference (s).

Table 1. Reasons to Assign Distribution Statement B, Continued

Critical Technology	<p>To protect information on technologies essential to the design, development, production, operation, application, or maintenance of an article or service that makes or could make a significant contribution to the military potential of any country, including the United States. This includes, but is not limited to, design and manufacturing knowledge, technical data, keystone equipment, and inspection and test equipment or data that relate to a specific military deficiency of a potential adversary. Information of this type may be classified or unclassified.</p> <p>Assigned pursuant to subpart 800.209 of title 31, CFR (Reference (u)); ITAR; and EAR.</p>
Export Controlled	<p>To protect information subject to the provisions of Reference (d). Distribution “X” is superseded by issuance of this Instruction. Subsequent dissemination of formerly Distribution X documents shall display Distribution Statement C, with export control as the reason and shall be marked as directed in paragraph 8.a of Enclosure 3, unless changed by the controlling DoD office.</p>
Foreign Government Information	<p>To protect and limit distribution in accordance with the desires of and agreements with the foreign government that furnished the technical information.</p> <p>Assigned pursuant to chapter 15 of title 50, U.S.C. (Reference (v)) and Executive Order 13526 (Reference (w)).</p>
Operations Security	<p>To protect information and technical data that may be observed by adversary intelligence systems and to determine what indicators hostile intelligence systems may obtain that could be interpreted or assembled to derive critical information in time to be useful to adversaries.</p> <p>Assigned in accordance with DoDD 5205.02 (Reference (x)).</p>
Premature Dissemination	<p>To protect patentable information on systems or processes in the development or concept stage from premature dissemination.</p> <p>Assigned pursuant to section 205 of title 35, U.S.C. (Reference (y)).</p>

Table 1. Reasons to Assign Distribution Statement B, Continued

Proprietary Information	To protect information not owned by the U.S. Government and marked with a statement of a legal property right. This information is received with the understanding that it not be routinely transmitted outside the U.S. Government. See Enclosure 5 of this Instruction for information on third party-imposed restrictive markings. Assigned pursuant to Public Law 104-294 (Reference (z)); section 1498(a) of title 28, U.S.C. (Reference (aa)); title 17, U.S.C. (Reference (ab)); section 1905 of title 18, U.S.C. (Reference (ac)); and section 638 of title 15, U.S.C. (Reference (ad)).
Test and Evaluation	To protect the results of test and evaluation of commercial products or military hardware when disclosure may cause unfair advantage or disadvantage to the manufacturer of the product. Assigned pursuant to part 311.8 of title 32, CFR (Reference (ae)).
Software Documentation	To protect technical data relating to computer software that is releasable only in accordance with the software license in subpart 227.72 of Reference (s). It includes documentation such as user's or owner's manuals, installation instructions, operating instructions, and other information that explains the capabilities of or provides instructions for using or maintaining computer software.
Specific Authority	To protect information not specifically included in the reasons listed in this table, but which requires protection in accordance with valid documented authority, such as Executive Orders, statutes, and regulations, such as the Atomic Energy Federal regulation. When filling in the reason, cite "Specific Authority (identification of valid documented authority)."
Vulnerability Information	To protect information and technical data that provides insight into vulnerabilities of U.S. critical infrastructure, including DoD warfighting capabilities vital to National Security that are otherwise not publicly available. Assigned pursuant to Public Law 107-296 (Reference (af)).

c. "DISTRIBUTION STATEMENT C. Distribution authorized to U.S. Government agencies and their contractors (fill in reason) (date of determination). Other requests for this document shall be referred to (insert controlling DoD office)."

(1) Distribution Statement C may be used on unclassified and classified technical documents.

(2) Reasons for assigning Distribution Statement C are listed in Table 2.

Table 2. Reasons to Assign Distribution Statement C

Administrative or Operational Use	Same as Distribution Statement B.
Critical Technology	Same as Distribution Statement B.
Export Controlled	Same as Distribution Statement B.
Foreign Government Information	Same as Distribution Statement B.
Software Documentation	Same as Distribution Statement B.
Specific Authority	Same as Distribution Statement B.
Vulnerability Information	Same as Distribution Statement B.

d. “DISTRIBUTION STATEMENT D. Distribution authorized to the Department of Defense and U.S. DoD contractors only (fill in reason) (date of determination). Other requests shall be referred to (insert controlling DoD office).”

(1) Distribution Statement D may be used on unclassified and classified technical documents.

(2) Reasons for assigning Distribution Statement D are listed in Table 3.

Table 3. Reasons to Assign Distribution Statement D

Administrative or Operational Use	Same as Distribution Statement B.
Critical Technology	Same as Distribution Statement B.
Export Controlled	Same as Distribution Statement B.
Foreign Government Information	Same as Distribution Statement B.
Software Documentation	Same as Distribution Statement B.
Specific Authority	Same as Distribution Statement B.
Vulnerability Information	Same as Distribution Statement B.

e. “DISTRIBUTION STATEMENT E. Distribution authorized to DoD Components only (fill in reason) (date of determination). Other requests shall be referred to (insert controlling DoD office).”

(1) Distribution Statement E may be used on unclassified and classified technical documents.

(2) Reasons for assigning Distribution Statement E are listed in Table 4:

Table 4. Reasons to Assign Distribution Statement E

Direct Military Support	The document contains export-controlled technical data of such military significance that release for purposes other than direct support of DoD-approved activities may jeopardize an important technological or operational military advantage of the United States, another country, or a joint U.S.-foreign program. Designation of such data is made by competent authority in accordance with Reference (d). Assigned pursuant to section 2751 of title 22, U.S.C. (Reference (ag)).
Administrative or Operational Use	Same as Distribution Statement B.
Contractor Performance Evaluation	Same as Distribution Statement B.
Critical Technology	Same as Distribution Statement B.
Export Controlled	Same as Distribution Statement B.
Foreign Government Information	Same as Distribution Statement B.
Operations Security	Same as Distribution Statement B.
Premature Dissemination	Same as Distribution Statement B.
Proprietary Information	Same as Distribution Statement B.
Software Documentation	Same as Distribution Statement B.
Specific Authority	Same as Distribution Statement B.
Test and Evaluation	Same as Distribution Statement B.
Vulnerability Information	Same as Distribution Statement B.

f. “DISTRIBUTION STATEMENT F. Further dissemination only as directed by (inserting controlling DoD office) (date of determination) or higher DoD authority.” Distribution Statement F is normally used only on classified technical documents, but may be used on unclassified technical documents when specific authority exists (e.g., designation as direct military support as in Statement E).

g. EXPORT CONTROL WARNING. All printed and electronic, including digital, technical documents that are determined to contain export-controlled technical data shall be marked as shown in Figure 1. When it is technically infeasible to use the entire statement, an abbreviated marking may be used, and a copy of the full statement added to the “Notice To Accompany Release of Export-Controlled Data” required by Reference (e).

Figure 1. Export Control Warning Label

WARNING - This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C., Sec 2751, et seq.) or the Export Administration Act of 1979 (Title 50, U.S.C., App. 2401 et seq.), as amended. Violations of these export laws are subject to severe criminal penalties. Disseminate in accordance with provisions of DoD Directive 5230.25.

Table 5. Distribution Statements and Their Corresponding Reasons for Use

DISTRIBUTION A. Approved for public release: distribution unlimited.					
DISTRIBUTION B. Distribution authorized to U.S. Government agencies (reason) (date of determination). Other requests for this document shall be referred to (controlling DoD office).					
DISTRIBUTION C. Distribution authorized to U.S. Government agencies and their contractors (reason) (date of determination). Other requests for this document shall be referred to (controlling DoD office).					
DISTRIBUTION D. Distribution authorized to Department of Defense and U.S. DoD contractors only (reason) (date of determination). Other requests for this document shall be referred to (controlling DoD office).					
DISTRIBUTION E. Distribution authorized to DoD Components only (reason) (date of determination). Other requests for this document shall be referred to (controlling DoD office).					
DISTRIBUTION F. Further dissemination only as directed by (controlling office) (date of determination) or higher DoD authority.					
REASON	A	B	C	D	E
PUBLIC RELEASE.	X				
ADMINISTRATIVE OR OPERATIONAL USE: To protect technical or operational data or information from automatic dissemination under the International Exchange Program or by other means. This protection covers publications required solely for official use or strictly for administrative or operational purposes. This statement may apply to manuals, pamphlets, technical orders, technical reports, and other publications containing valuable technical or operational data.		X	X	X	X
CONTRACTOR PERFORMANCE EVALUATION: To protect information in management reviews, records of contract performance evaluation, or other advisory documents evaluating programs of contractors.		X			X
CRITICAL TECHNOLOGY: To protect information and technical data that advance current technology or describe new technology in an area of significant or potentially significant military application or that relate to a specific military deficiency of a potential adversary. Information of this type may be classified or unclassified.		X	X	X	X
DIRECT MILITARY SUPPORT: The document contains export-controlled technical data of such military significance that release for purposes other than direct support of DoD-approved activities may jeopardize an important technological or operational military advantage of the United States, another country, or a joint U.S.-foreign program. Designation of such data is made by competent authority in accordance with Reference (d).					X
EXPORT CONTROLLED: To protect information subject to the provisions of Reference (d).		X	X	X	X
FOREIGN GOVERNMENT INFORMATION: To protect and limit distribution in accordance with the desires of and agreements with the foreign government that furnished the technical information.		X	X	X	X
OPERATIONS SECURITY: To protect information and technical data that may be observed by adversary intelligence systems and determining what indicators hostile intelligence systems may obtain that could be interpreted or pieced together to derive critical information in time to be useful to adversaries.		X			X
PREMATURE DISSEMINATION: To protect patentable information on systems or processes in the development or concept stage from premature dissemination.		X			X
PROPRIETARY INFORMATION: To protect information not owned by the U.S. Government and marked with a statement of a legal property right. This information is received with the understanding that it will not be routinely transmitted outside the U.S. Government.		X			X
TEST AND EVALUATION: To protect results of test and evaluation of commercial products or military hardware when disclosure may cause unfair advantage or disadvantage to the manufacturer of the product.		X			X
SOFTWARE DOCUMENTATION: To protect technical data relating to computer software that is releasable only in accordance with the software license in subpart 227.72 of Reference (s). It includes documentation such as user or owner manuals, installation instructions, operating instructions, and other information that explains the capabilities of or provides instructions for using or maintaining computer software.		X	X	X	X
SPECIFIC AUTHORITY: To protect information not specifically included in the above reasons, but which requires protection in accordance with valid documented authority (e.g., Executive orders, statutes such as Atomic Energy Federal regulation). When filling in the reason, cite "Specific Authority (identification of valid documented authority)."		X	X	X	X
VULNERABILITY INFORMATION: To protect information and technical data that provides insight into vulnerabilities of U.S. critical infrastructure, including DoD warfighting infrastructure, vital to National Security that are otherwise not publicly available.		X	X	X	X

ENCLOSURE 5

THIRD PARTY-IMPOSED DISTRIBUTION STATEMENTS

1. GENERAL. Contractors are generally allowed to retain ownership of the intellectual property that is embodied in technical data, documents, or information that is delivered or otherwise provided to the Government. The Government typically receives license rights to use, reproduce, modify, release, and disclose the information. The scope of the Government's license is dependent on a variety of factors, including the source of funding for development of the technology, whether the information relates to a commercial item, and the parties' negotiations for specialized license terms or restrictions. If the Government has "unlimited rights," then the Government may use, modify, reproduce, perform, display, release, or disclose information, in whole or in part, in any manner and for any purpose whatsoever and request or authorize others to do so.

2. RESTRICTIVE MARKINGS. Restrictive markings are either required or permitted on all forms of technical data or computer software that is to be delivered to DoD. The specific format and content of these markings depends on whether the data or software is noncommercial or commercial. When the Government receives less than unlimited license rights in technical data, documents, or information, the contractor is required to mark the information with an appropriate restrictive legend. In some cases, the applicable regulations specify the precise wording of the restrictive legend, but in many cases the contractor is permitted to use any restrictive legend that appropriately provides notice of the contractor's proprietary interests and accurately characterizes the Government's license rights.

a. Procurement Contracts. The DFARS governs the restrictive markings that apply to technical data, documents, or information that is developed or delivered under a DoD procurement contract. Subpart 227.71 of Reference (s) governs the license rights and restrictive markings for technical data, and subpart 227.72 of Reference (s) governs computer software and computer software documentation.

(1) Noncommercial Technologies. Restrictive markings are required for all noncommercial technical data and computer software developed or delivered under a procurement contract with less than unlimited rights. The DFARS establishes specific procedures governing the placement of restrictive markings on deliverables, storage media, and transmittal documents. In addition, there are only six types of legends that are authorized in accordance with the relevant clauses in Reference (s)).

(a) The "Government Purpose Rights" legend.

(b) The "Limited Rights" legend (for technical data only) (authorized by subpart 252.227-7013(f) in Reference (s)).

(c) The “Restricted Rights” legend (for computer software only) (authorized by subpart 252.227-7014(f) in Reference (s)).

(d) The “Special License Rights” legend.

(e) The “Small Business Innovation Research (SBIR) Program” legend (authorized by subpart 252.227-7018(f) in Reference (s)).

(f) Pre-existing markings authorized under a previous Government contract.

(2) DFARS. DFARS marking requirements specify that data be “conspicuously and legibly” marked with a protective legend that identifies the contract number, contractor’s name and address, and the expiration date, along with the warning shown in Figure 2.

Figure 2. Notice of Rights in Technical Data

The Government’s rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(2) of the Rights in Technical Data-Noncommercial Items clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(3) Commercial Technologies. The DFARS guidance concerning restrictive legends on commercial technologies is more flexible to account for the wide variations in legends and marking that are customarily used in the commercial marketplace.

(a) For technical data pertaining to commercial items, the contractor is required to use a restrictive legend for data being provided with less than unlimited rights, but the DFARS does not specify the precise wording of the legend. The Government’s license rights will be specified in the contract: either the standard rights specified in subpart 252.227-7015 of Reference (s) or a special license agreement that is incorporated into the contract.

(b) Similarly, the DFARS does not specify a restrictive legend for computer software; the deliverable software will typically be marked in accordance with standard commercial practices. The Government’s rights should be specified in a license agreement that is incorporated into the contract.

b. Instruments Other Than Procurement Contracts. Technical data, documents, or information may be developed or delivered to the Government under various legally binding instruments other than procurement contracts. Examples include grants, cooperative agreements, cooperative research and development agreements pursuant to section 3710a of Reference (ad), or other transaction agreements pursuant to section 2371 of Reference (c). The Government’s

license rights and any specified legends should be set forth in the language of the legally binding agreement.

c. Other Forms of Proprietary Information. The Government may receive a private entity's proprietary information in a variety of contexts in which there may not be a formal legal agreement to document the Government's license rights or any specific restrictive legends. For example, a private entity may provide the Government with certain technical information to supplement the Government's evaluation of a new technology, for market research, or similar activities. In these cases, the restrictive legend on the materials may be the key element in identifying the Government's license rights in those materials. Great care must be taken when evaluating these materials for application of the appropriate distribution statement to ensure that the private entities' proprietary interests are protected.

d. Copyright. A notice of copyright may be used in addition to the other authorized markings. Sections 401 and 402 of Reference (ab) specify that the form of notice is: Copyright or © [Date] [Copyright Owner].

(1) The copyright notice alone does not qualify as a restrictive marking on noncommercial technical data or computer software as described in subpart 252.227-7013 of Reference (s), but could serve as a restrictive marking on commercial products.

(2) Clauses in paragraph (d) of subparts 227.7103-9, 252.227-7013(d) and 252.227-7014(d) of Reference (s), provide that data delivered under contract must include appropriate licenses for copyrighted material. The Government shall presume unlimited rights in noncommercial and technical data delivered or provided to it without a restrictive marking. Unlimited rights grant the Government and others acting on its behalf, a paid-up, nonexclusive, and irrevocable worldwide license to reproduce, prepare derivative works, distribute copies, and perform and display the work for any purpose.

3. APPLYING THE DISTRIBUTION STATEMENT. Technical data, documents, or information marked with contractor imposed restrictive legends may be released only in accordance with Government license rights in those materials.

a. Step 1. Verify the Government's license rights or authorization to distribute. A third party-imposed restrictive legend provides general notice of restrictions on the use or disclosure of the information, but may not completely or accurately specify the entire spectrum of license rights granted to the Government. In most cases, the complete specification of the Government's rights is provided in a legally binding instrument that governs the transaction under which the Government received the proprietary information (e.g., the procurement contract, grant, cooperative agreement, or other transaction agreement).

b. Step 2. Apply the distribution statement. The appropriate distribution statement is entirely dependent on the scope of the Government's license rights in those materials. In most cases, the reason "Proprietary Information" will provide the basis for distribution statements B, E, or F. When used as the reason for limitation, note the Government's license rights as

described in subparagraph 2.a.(1) of this enclosure in parentheses (i.e., Proprietary Information (DFARS Limited Rights) or Proprietary Information (DFARS SBIR Rights)). If the Government has unlimited rights in the information, then the materials may even qualify for Distribution Statement A, after appropriate clearance procedures in accordance with References (k) and (l).

c. Step 3. Implement appropriate procedures and safeguards governing the distribution. In some cases, the Government may be authorized to distribute proprietary information only when the release or disclosure is accompanied by certain procedural safeguards. For example, the Government may release or disclose technical data or computer software governed by a DFARS “Government Purpose Rights” license only when the recipient of the information signs a specified nondisclosure agreement as described in subpart 227.7103-7 of Reference (s) or is receiving the information under performance of a contract that includes the clause in subpart 252.227-7025 of Reference (s). The Government must ensure that these requirements are satisfied during any distribution.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

ASD(R&E)	Assistant Secretary of Defense for Research and Engineering
CFR	Code of Federal Regulations
CPI	critical program information
DA&M	Director of Administration and Management
DFARS	Defense Federal Acquisition Regulation Supplement
DoDD	DoD Directive
DoDI	DoD Instruction
DTIC	Defense Technical Information Center
EAR	Export Administration Regulations
FOUO	for official use only
GC, DoD	General Counsel of the Department of Defense
ITAR	International Traffic in Arms Regulations
NATO	North Atlantic Treaty Organization
OSR	Office of Security Review
RDT&E	research, development, test, and evaluation
REL TO	releasable to
SBIR	small business innovation research
SF	standard form
U.S.C.	United States Code
USD(I)	Under Secretary of Defense for Intelligence
USD(P)	Under Secretary of Defense for Policy

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this Instruction.

computer software. Computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation.

contracted fundamental research. Research performed under grants and contracts that are funded by Research, Development, Test, and Evaluation Budget Activity 1 (Basic Research) and 2 (Applied Research) whether performed by universities on campus or by industry. The research shall not be considered fundamental in those rare and exceptional circumstances where the Applied Research funded effort presents a high likelihood of disclosing performance characteristics of military systems or manufacturing technologies that are unique and critical to defense, and where agreement on restrictions have been recorded in the contract or grant.

contractor. An individual or organization outside the U.S. Government who has accepted any type of agreement or order to provide research, supplies, or services to a U.S. Government agency, including both prime contractors and subcontractors.

DoD potential contractor. An individual or organization outside the DoD approved and certified by a sponsoring DoD activity as “eligible for DoD technical information services” under a DoD Component potential contractor program. This may be based on participation in any similar DoD Component program such as the Navy Potential Contractor Program. The DoD Components without a formal potential contractor program may certify a contractor based on a company’s legitimate business relationship as defined in Reference (d). The sponsoring DoD activity shall be reasonably assured that this individual or organization may benefit by their access to Defense technical information in their understanding of and for responding to a DoD acquisition.

qualified U.S. contractor. Defined in paragraph 3.2 of Reference (d).

U.S. DoD contractor. Those U.S. contractors currently holding grants or contracts with the DoD, or those contractors declared eligible for DoD information services by a sponsoring DoD activity on the basis of participation in a DoD potential contractor program or equivalent certification as described in the definition for “DoD potential contractor”.

controlled unclassified information. Defined in Reference (j) and Executive Order 13556 (Reference (ah)).

controlling DoD office. The DoD activity that sponsored the work that generated the technical document for the DoD and has the inherently Governmental responsibility for determining the distribution of a document containing such technical information. For joint sponsorship, the controlling office is determined by advance agreement and may be a party, group, or committee

representing the interested activities or DoD Components. Only the controlling office or higher authority may authorize distribution beyond the distribution statement.

critical technology. Technology that consists of arrays of design and manufacturing knowledge (including technical data); manufacturing, inspection, and test equipment; materials and goods accompanied by sophisticated operation, application, or maintenance knowledge that would make a significant contribution to the military potential of any country or combination of countries and that may prove detrimental to the security of the United States (also referred to as militarily critical technology).

date of determination. The date on which the reason for assigning a specific distribution statement was determined. It is usually the date of the report, but may be earlier if specified by contract or other agreement. The date is important for document identification and for legal, contractual, and regulatory evidentiary purposes.

distribution statement. A statement used in marking a technical document to denote the extent of its availability for secondary distribution, release, and disclosure without additional approvals or authorizations. A distribution statement marking is distinct from and in addition to a security classification marking assigned in accordance with Reference (n).

document. Any recorded information regardless of its medium, physical form, or characteristics.

engineering information. Engineering data, prepared by a design activity for the disclosure and description of configuration, form, fit, performance, operation, reliability, maintainability, quality control, or other engineering features of items, materials, methods, practices, processes, and services. These data are used for design, development, test, manufacture, acceptance, training, operation, maintenance, and overhaul. The principal types of engineering information are engineering drawings and associated lists (parts list, data list, and index list), manufacturer specifications and standards, data sheets, test reports, bills of material, handbooks, technical orders or manuals, engineering changes, and various other documents that provide data on reliability, maintainability, end item application, and quality control.

export controlled. Items subject to the EAR or the ITAR. The term includes:

Defense items. Defined in section 2778(j)(4)(A) of Reference (ag).

foreign government information. Information that is:

Provided to the U.S. Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence, and afforded the same degree of protection afforded to U.S. Government information of an equivalent classification and dissemination control as required by national security regulations.

Produced by the U.S. Government pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any

element thereof, requiring that the information, the arrangement, or both, are to be held in confidence, and afforded the same degree of protection afforded to U.S. Government information of an equivalent classification and dissemination control as required by national security regulations.

primary distribution. The initial targeted distribution of or access to technical documents authorized by the controlling DoD office or any release by the controlling office thereafter.

proprietary. Information relating to or associated with a company's products, business, or activities, including, but not limited to, financial information; data or statements; trade secrets; product research and development; existing and future product designs and performance specifications; marketing plans or techniques; schematics; client lists; computer programs; processes; and knowledge that have been clearly identified and properly marked by the company as "proprietary information," trade secrets, or company confidential information. The information must have been developed by the company and not be available to the Government or to the public without restriction from another source.

RDT&E

Scientific study and experimentation directed toward increasing fundamental knowledge and understanding in those fields of the physical, engineering, environmental, and life sciences related to long-term national security needs.

Systematic expansion and application of knowledge to develop useful materials, devices, and systems or methods oriented toward the design, development, and improvement of prototypes and new processes to meet general mission area requirements.

Development of subsystems and components and efforts to integrate subsystems and components into system prototypes for field experiments or tests in a simulated environment including concept and technology demonstrations of components and subsystems or system models.

System-specific efforts that expedite technology transition from the laboratory to operational use.

Engineering and manufacturing development tasks aimed at meeting validated requirements prior to full-rate production and conducting live fire test and evaluation and initial operational test and evaluation of production representative articles.

Efforts to sustain and modernize the installations or operations required for general RDT&E. Test ranges, military construction, maintenance support of laboratories, operation and maintenance of test aircraft and ships, and studies and analyses in support of the RDT&E program.

Development efforts to upgrade systems that have been fielded or have received approval for full rate production.

scientific and technical information. Communicable knowledge or information resulting from or pertaining to conducting and managing a scientific or engineering research effort.

secondary distribution. Release of technical documents provided after primary distribution by the originator or controlling office. It includes loaning, allowing the reading of, or releasing a document outright, in whole, or in part.

support. Defined in Joint Publication 1-02 (Reference (ai)).

technical data. Defined in sections 252.227-7013(a)(15), 7015(a)(5), and 7018(a)(20)) of Reference (s).

technical document. Any recorded information that conveys scientific and technical information or technical data. This includes such informal documents as working papers, memoranda, and preliminary reports when such documents have utility beyond the immediate mission requirement or will become part of the historical record of technical achievements.

technical information. The term includes technical data or computer software of any kind that can be used, or adapted for use, in the design, production, manufacture, assembly, repair, overhaul, processing, engineering, development, operation, maintenance, adapting, testing, or reconstruction of goods or materiel; or any technology that advances the state of the art, or establishes a new art, in an area of significant military applicability in the United States. The data may be in tangible form, such as a blueprint, photograph, plan, instruction, or an operating manual, or may be intangible, such as a technical service or oral, auditory, or visual descriptions. Examples of technical data include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software.

controlled technical information. Technical information that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. The term does not include information concerning general scientific, mathematics, or engineering principles commonly taught in schools, colleges, and universities or information in the public domain.

test information. Set of representative and meaningful information that is used to exercise test case and evaluate system compliance to the defined set of criteria and expected results and the results of such tests.