

(ii) If authorized in Component instructions, wallet-size cards which describe in general terms the purpose(s) for authorizing the employee to remove classified material from the facility (for example, use at meetings or transmission to authorized recipients).

(3) Inspectors are to ensure that personnel are not removing classified material without authorization. Where inspectors determine that individuals do not appear to have appropriate authorization to remove classified material, they shall request such individual to obtain appropriate authorization before exiting the premises. If, due to the circumstances, this is not feasible, the inspector should attempt to verify by telephone the authority of the individual in question to remove the classified material with the employing office. When such verification cannot be obtained, and if removal cannot be prevented, the inspector shall advise the employing office and appropriate security office as soon as feasible that classified material was removed by the named individual at a particular time and without apparent authorization.

(4) If the employing office determines that classified material was removed by one of its employees without authority, it shall request an investigation of the circumstances of the removal by appropriate investigative authorities. Where such investigation confirms a violation of security procedures, other than espionage or deliberate compromise, for which § 159a.50 applies, appropriate administrative, disciplinary, or legal action shall be taken.

Subpart G—Compromise of Classified Information

§ 159a.41 Policy.

Compromise of classified information presents a threat to the national security. Once a compromise is known to have occurred, the seriousness of damage to U.S. interests must be determined and appropriate measures taken to negate or minimize the adverse effect of such compromise. When possible, action also should be taken to regain custody of the documents or material that were compromised. In all cases, however, appropriate action

must be taken to identify the source and reason for the compromise and remedial action taken to ensure further compromises do not occur. The provisions of DoD Instruction 5240.4²³ and DoD Directive 5210.50²⁴ apply to compromises covered by this subpart.

§ 159a.42 Cryptographic and sensitive compartmented information.

(a) The procedures for handling compromises of cryptographic information are set forth in NACSI 4006 and implementing instructions.

(b) The procedures for handling compromises of SCI information are set forth in DoD TS-5105.21-M-2²⁵ and DoD C-5105.21-M-1²⁶.

§ 159a.43 Responsibility of discoverer.

(a) Any person who has knowledge of the loss or possible compromise of classified information shall immediately report such fact to the security manager of the person's activity (see § 159a.93(e)) or to the commanding officer or head of the activity in the security manager's absence.

(b) Any person who discovers classified information out of proper control shall take custody of such information and safeguard it in an appropriate manner, and shall notify immediately an appropriate security authority.

§ 159a.44 Preliminary inquiry.

The immediate commander, supervisor, security manager, or other authority shall initiate a preliminary inquiry to determine the circumstances surrounding the loss or possible compromise of classified information. The preliminary inquiry shall establish one of the following:

(a) That a loss or compromise of classified information did not occur;

(b) That a loss or compromise of classified information did occur but the compromise reasonably could not be expected to cause damage to the national security. If, in such instances, the official finds no indication of significant security weakness, the report

²³ See footnote 1 to § 159a.3.

²⁴ See footnote 1 to § 159a.3.

²⁵ See footnote 13 to § 159a.33(j).

²⁶ See footnote 13 to § 159a.33(j).

of preliminary inquiry will be sufficient to resolve the incident and, when appropriate, support the administrative sanctions under § 159a.98; or

(c) That the loss or compromise of classified information did occur and that the compromise reasonably could be expected to cause damage to the national security or that the probability of damage to the national security cannot be discounted. Upon this determination, the responsible official shall:

(1) Report the circumstances of the compromise to an appropriate authority as specified in DoD Component instructions;

(2) If the responsible official is the originator, take the action prescribed in § 159a.47; and

(3) If the responsible official is not the originator, notify the originator of the known details of the compromise, including identification of the classified information. If the originator is unknown, notification will be sent to the office specified in DoD Component instructions.

§ 159a.45 Investigation.

If it is determined that further investigation is warranted, such investigation will include the following:

(a) Identification of the source, date, and circumstances of the compromise.

(b) Complete description and classification of each item of classified information compromised;

(c) A thorough search for the classified information;

(d) Identification of any person or procedure responsible for the compromise. Any person so identified shall be apprised of the nature and circumstances of the compromise and be provided an opportunity to reply to the violation charged. If such person does not choose to make a statement, this fact shall be included in the report of investigation;

(e) An analysis and statement of the known or probable damage to the national security that has resulted or may result (See § 159a.15(k)), and the cause of the loss or compromise; or a statement that compromise did not occur or that there is minimal risk of damage to the national security;

(f) An assessment of the possible advantage to foreign powers resulting from the compromise; and

(g) A compilation of the data in paragraphs (a) through (f) of this section, in a report to the authority ordering the investigation to include an assessment of appropriate corrective, administrative, disciplinary, or legal actions. (Also see § 159a.100).

§ 159a.46 Responsibility of authority ordering investigation.

(a) The report of investigation shall be reviewed to ensure compliance with this part and instructions issued by DoD Components.

(b) The recommendations contained in the report of investigation shall be reviewed to determine sufficiency of remedial, administrative, disciplinary, or legal action proposed and, if adequate, the report of investigation shall be forwarded with recommendations through supervisory channels (See § 159a.98 and § 159a.99).

(c) Whenever an action is contemplated against any person believed responsible for the compromise of classified information, damage assessments shall be coordinated with the legal counsel of the DoD Component where the individual responsible is assigned or employed. Whenever a violation of criminal law appears to have occurred and a criminal prosecution is contemplated, the DoD Component responsible for the damage assessment shall apprise the General Counsel, Department of Defense. See § 159a.101.

§ 159a.47 Responsibility of originator.

The originator or an official higher in the originator's supervisory chain shall, upon receipt of notification of loss or probable compromise of classified information, take action as prescribed in § 159a.15(k).

§ 159a.48 System of control of damage assessments.

Each DoD Component shall establish a system of controls and internal procedures to ensure that damage assessments are conducted when required and that records are maintained in a manner that facilitates their retrieval and use within the Component.