

## § 286.17

### § 286.17 Dissemination and transmission.

(a) *Release and transmission procedures.* Until FOUO status is terminated, the release and transmission instructions that follow apply:

(1) FOUO information may be disseminated within DoD Components and between officials of DoD Components and DoD contractors, consultants, and grantees to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized public disclosure. Transmittal documents shall call attention to the presence of FOUO attachments.

(2) DoD holders of FOUO information are authorized to convey such information to officials in other Departments and Agencies of the Executive and Judicial Branches to fulfill a government function, except to the extent prohibited by the Privacy Act. Records thus transmitted shall be marked "For Official Use Only," and the recipient shall be advised that the information may qualify for exemption from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply.

(3) Release of FOUO information to Members of Congress is governed by DoD Directive 5400.4.<sup>9</sup> Release to the GAO is governed by DoD Directive 7650.1.<sup>10</sup> Records released to the Congress or GAO should be reviewed to determine whether the information warrants FOUO status. If not, prior FOUO markings shall be removed or effaced. If withholding criteria are met, the records shall be marked FOUO and the recipient provided an explanation for such exemption and marking. Alternatively, the recipient may be requested, without marking the record, to protect against its public disclosure for reasons that are explained.

(b) *Transporting FOUO information.* Records containing FOUO information shall be transported in a manner that prevents disclosure of the contents. When not commingled with classified information, FOUO information may be sent via first-class mail or parcel

<sup>9</sup>See footnote 1 to § 286.1(a).

<sup>10</sup>See footnote 1 to § 286.1(a).

## 32 CFR Ch. I (7–1–99 Edition)

post. Bulky shipments, such as distributions of FOUO Directives or testing materials, that otherwise qualify under postal regulations, may be sent by fourth-class mail.

(c) *Electronically and facsimile transmitted messages.* Each part of electronically and facsimile transmitted messages containing FOUO information shall be marked appropriately. Unclassified messages containing FOUO information shall contain the abbreviation "FOUO" before the beginning of the text. Such messages and facsimiles shall be transmitted in accordance with communications security procedures whenever practicable.

### § 286.18 Safeguarding FOUO information.

(a) *During duty hours.* During normal working hours, records determined to be FOUO shall be placed in an out-of-sight location if the work area is accessible to nongovernment personnel.

(b) *During nonduty hours.* At the close of business, FOUO records shall be stored so as to prevent unauthorized access. Filing such material with other unclassified records in unlocked files or desks, etc., is adequate when normal U.S. Government or Government-contractor internal building security is provided during nonduty hours. When such internal security control is not exercised, locked buildings or rooms normally provide adequate after-hours protection. If such protection is not considered adequate, FOUO material shall be stored in locked receptacles such as file cabinets, desks, or bookcases. FOUO records that are subject to the provisions of the National Security Act of 1959 shall meet the safeguards outlined for that group of records.

### § 286.19 Termination, disposal and unauthorized disclosure.

(a) *Termination.* The originator or other competent authority; e.g., initial denial and appellate authorities, shall terminate "For Official Use Only" markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified, to the extent practical. Upon