Controlled Unclassified Information Guide

Program: Area-Multiplied Photonic-crystal Enhanced Devices (AMPED)
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DISTRIBUTION STATEMENT A
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FOREWORD

1. DESCRIPTION

Area-Multiplied Photonic-crystal Enhanced Devices (AMPED) will demonstrate single-mode, continuous wave, highly efficient laser devices capable of 10 kW output power in a chip-scale form-factor – a 1000x improvement in power versus state-of-the-art (SoA) single-mode Photonic-Crystal Surface Emitting Lasers (PCSEL) devices. The end item developed will be a TRL 3 single mode laser emitter.

Certain technologies developed under AMPED will be critical to the DoD. This guide identifies those aspects of the program that performers must handle as Controlled Unclassified Information (CUI). In addition, each performer must determine and assert the export controls (either Export Administration Regulations or International Traffic in Arms Regulations) relevant to their project and communicate that assertion to their contracting agent and to the DARPA Program Manager.

2. AUTHORITY

CUI elements referenced in this guide are under the authority of DoDI 5200.48, "Controlled Unclassified Information," March 6, 2020.

3. Distribution

Distribution unlimited, approved for public release.

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1. PURPOSE

a. The purpose of this CUI guide is to ensure the protection of AMPED information IAW DoDI 5200.48. AMPED information should be controlled and stored consistent with federal requirements and guidance from the National Institute for Standards and Technology (NIST). Sensitive information does not include information in the public domain.

b. This guide is not for classified national security information as defined in Executive Order 13526, but identifies specific elements of sensitive information that are unclassified in nature requiring protection. This information is not classified national security information, but it is covered by the legislation at large for the Freedom of Information Act (FOIA) and the exemptions therein.

2. APPLICABILITY AND SCOPE

This guide applies to all DARPA personnel, support contractors, mission partners, and industrial performers who support AMPED. This guide should be cited as the basis for identifying, protecting and marking of information and material designated as a type of controlled unclassified information (CUI) associated with AMPED. As defined at 32 CFR Section 2002.4(h), CUI is information that the government creates or possesses – or that an entity creates or possesses on behalf of the government that law, regulation or government-wide policy requires or permits an agency to handle using safeguarding or dissemination controls. It is to be used in conjunction with related security classification guides and guidance documents associated with the overall effort of AMPED, in compliance with Executive Orders and related DoD guidance. The scope of this guide is based on AMPED as planned at the date of this guide and may expand or change as strategic decisions are made over the course of AMPED.

3. OFFICE OF PRIMARY RESPONSIBILITY (OPR)

This CUI guide is issued by DARPA. All inquiries concerning content, interpretations, and clarification of this document should be addressed to DARPA at MTOSecurity@darpa.mil with any questions.

4. CONTROLLED UNCLASSIFIED INFORMATION (CUI) CHALLENGES

<u>CUI Challenges</u>: Authorized holders of CUI who, in good faith, believe that a designation of information as CUI within this guide is improper or incorrect, or who believe they have received unmarked CUI, should notify DARPA at MTOSecurity@darpa.mil. Until the challenge is resolved, the challenged CUI, including challenges to unmarked CUI, will continue to be safeguarded and disseminated at the appropriate control level indicated in the markings or presumed category.

5. OPERATIONS SECURITY (OPSEC)

a. OPSEC is a process that identifies and mitigates adversarial risk to our operations by looking at our operations through the eyes of our adversaries. The application of the OPSEC methodology includes identifying critical information, analyzing threats and vulnerabilities, analyzing and assessing adversarial risk, and implementing OPSEC measures that reduce this risk.

b. AMPED critical information falls under the following index of CUI:

1) Defense
2) Export Control
3) Intelligence
4) Proprietary Business Information

6. CUI Categories

a. **Controlled Technical Information (CTI).** This category relates to technical information with military or space applications that are subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information meeting those criteria, if disseminated, would use distribution statements B through F in accordance with DoD Instruction 5230.24, Distribution Statements on Technical Documents.
b. **General Proprietary Business Information.** General Proprietary Business Information. Material and 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.
c. **Export Controlled.** Unclassified information concerning certain items, commodities, technology, software, or other information whose export could reasonably be expected to adversely affect the United States national security and nonproliferation objectives. Includes dual use items; items identified in export administration regulations, international traffic in arms regulations and the munitions list; license applications; and sensitive nuclear technology information.
d. **Export Controlled Research.** Related to the systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions. Note that this category is distinctly different from "Export Controlled". It is used for information produced during DoD-funded research. See https://www.dodcui.mil/Export-Control/Export-Controlled-Research/
e. **Operations Security.** Unclassified information that could constitute an indicator of U.S. Government intentions, capabilities, operations, or activities or otherwise compromise operations. This includes pre-decisional information.
f. AMPED critical information falls under the following indexes of CUI:

1. Critical technologies developed under AMPED
2. Program documents
3. Sensitive test information

7. FREEDOM OF INFORMATION ACT (FOIA) EXEMPT INFORMATION

The Freedom of Information Act (FOIA), 5 U.S.C. § 552, is a federal law that defines agency records subject to public disclosure, outlines mandatory disclosure procedures, and defines nine exemptions that prohibit certain types of information from being released to the public. In addition to the FOIA, the Code of Federal Regulations (October 2016), 45 CFR § 5.31 specifies the type of information that falls under each of the nine exemptions that preclude release of information to the public under the FOIA. In accordance with 5 U.S.C. § 552(a)(8), DARPA will withhold records or information exempt from disclosure under the FOIA whenever disclosure would harm an interest protected by a FOIA exemption or disclosure is prohibited by law. The most relevant exemptions for AMPED are listed below; however other exemptions could apply:

a. Exemption 2: Internal agency rules and practices.
b. Exemption 3: Information that is prohibited from disclosure by another federal law.
c. Exemption 4: Trade secrets and other confidential business information.

8. DISCLOSURE of CUI.

a. Public Disclosure. Information from this CUI guide does not allow automatic public release of this information. DoD information requested by the media or members of the public or proposed for release to the public by DoD civilians or military personnel or their contractors will be processed in accordance with DARPA Instruction 65 and DoD Instructions 5230.09, 5230.29; Volume 3 of DoD Manual 5200.01; and DoD Manual 5400.07, as applicable. Proposed public disclosures of unclassified information shall be submitted using the public release form located at https://www.darpa.mil/work-with-us/contract-management/public-release.

b. Freedom of Information Act (FOIA) Requests. All personnel with knowledge of this Project must coordinate with the DARPA PSO prior to providing a response to requests for information under the provisions of the FOIA.

c. Proprietary Information (PROPIN). Additional safeguards may become necessary if a contract requires the transfer of PROPIN. The holder of the information must clearly identify any and all PROPIN prior to its disclosure and release, the release will be coordinated with the PROPIN owner.

d. Foreign Disclosure. Disclosure of DARPA CUI to foreign nationals will be coordinated with the PSO, International Security, and International Cooperation. Disclosure approval must be granted by the Director, SID, who is the Foreign Disclosure Officer for DARPA.

9. CUI PROTECTION REQUIREMENTS

a. AMPED CUI (e.g., confidential business information, OPSEC data) regardless of media or format, will be protected from disclosure to unauthorized persons or groups, by properly storing in locked offices, cabinets, and drawers in accordance with DoDI 5200.48.

b. CUI may only be processed on DIB systems that are compliant with DFARS 252.204-7012 requirements as detailed in NIST 800-171.

10. NOTIFICATION OF UNAUTHORIZED DISCLOSURE

a. Personnel must immediately report all unauthorized disclosures or suspected and known security incidents, privacy breaches, and suspicious activities involving CUI to the AMPED PSO and PSR at james.persons@darpa.mil and christopher.esch.ctr@darpa.mil.

b. Data breaches of DIB networks and systems involving AMPED CUI material must be reported IAW DFARS 252.204-7012 requirements. In addition, all breaches must be reported to the DARPA Project contracting officer and program security officer (PSO) upon discovery.

11. INFORMATION PROTECTION GUIDANCE CHARTS

These charts are provided to assist in identifying what types of information associated with the AMPED effort may be sensitive, provide guidance on the relevant markings for this information to control dissemination, and provide guidance on when these dissemination controls no longer apply. If at any time there are questions regarding which category of information something falls under, or what dissemination controls apply, individuals should request guidance from DARPA at MTOSecurity@darpa.mil.

Element of Information	**Index**	**Category**	**Reason**	**LDC or Distribution Statement**	**Remarks**
Source architecture, designs, detailed processing recipes, and performance data applicable in next-generation military systems is protected as CUI and may be CTI.	Defense	Controlled Technical Information (CTI)	Executive Order #14104 - Federal Research & Development in Support of Domestic Manufacturing and US Jobs dated 28 July 2023	Distribution statements B through F	FOIA Exemptions 4 & 3 may be applicable
Data contractually identified as controlled by a business or individual as proprietary.	Proprietary Business Information	General Proprietary Business Information (PROPIN)	18 U.S. Code § 1905 18 U.S. Code § 664	Federal Employees and Contractors Only (FEDCON)	FOIA Exemption 3 may be applicable

Information or data defined within the Commerce Control List (CCL), United States Munitions List (USML), or applied license applications to control export.	Export Control	Export Controlled	10 USC 130(a), 13 USC 301(g), 42 USC 2077(a), 42 USC 2156, 42 USC 2168(a), 50 USC 4614(c), 50 USC 4605(l)(5), 15 CFR 718.3, 15 CFR 736 Supplement 2, 15 CFR 748.1(c), 15 CFR 760.5(c) 15 CFR 772.1, 15 CFR 774 Supplement 1, 15 CFR 774 Supplement 2, 22 CFR Part 120, 22 CFR 124.9(a)(5), 22 CFR 126.10(b), 32 CFR 250.4(a), 32 CFR 250.9	DISTRIBUTION STATEMENT D. Distribution authorized to the Department of Defense and U.S. DoD contractors only Export Controlled, (Date). Other requests shall be referred to DARPA, Microsystems Technology Office.	FOIA Exemptions 4 & 3 may be applicable
Technical information that is considered to be "State of the Art" by applying the Export Controlled Research CUI category.	Export Control	Export Controlled Research (EXPTR)*	15 CFR 734.8(b)	Federal Employees and Contractors Only (FEDCON)	FOIA Exemption 4 may be applicable

The aggregation of specific device design, processing recipes, fabrication and/or assembly flows that collectively form the basis of a significant or novel technological advancement within the AMPED program.	Intelligence	OPSEC	DARPA OPERATIONS SECURITY (OPSEC) PLAN DoDD 5205.02E DoDM 5205.02	Federal Employees and Contractors Only (FEDCON)	FOIA Exemption 2 may be applicable
Program documents and briefs that contain specific performance metric targets, technical specifications and data, or significant breakthroughs, when aggregated, could compromise operational security of AMPED's efforts. This includes pre-decisional information pertaining to upcoming or planned program goals or tests.	Intelligence	OPSEC	DARPA OPERATIONS SECURITY (OPSEC) PLAN DoDD 5205.02E DoDM 5205.02	Federal Employees and Contractors Only (FEDCON)	FOIA Exemption 2 may be applicable

* See "Export Controlled Research" definition in Section 5d above.