

## **APPENDIX N**

### **DISTRIBUTION STATEMENTS, THE DOCUMENT DATA SHEET FORM and THE IMPORTANCE OF MARKING DOCUMENTS**

This Appendix describes requirements for using Distribution Statements, the applicable reasons, the Document Data Sheet Form and the importance of marking documents

NAVFAC requires document creators to use the Generic NAVFAC Document Template, apply the appropriate Distribution Statement and fill in the Document Data Sheet Form.

The Generic Document Template is located in Appendix V.

The Document Data Sheet Form must be completed and submitted with the document to Records Management. Detailed instructions accompany the Data Sheet Form. See associated Appendix N documents

The document creator is responsible for determining the appropriate Distribution Statement for documents they create. If a document has sensitive information, document creators must identify all sensitive texts, figures, tables, maps, drawings, photographs and other visual representations within the document and provide the information to Records Management via the Document Data Sheet Form.

See Appendix D for detailed information about the Freedom of Information Act exemptions and their applicability to environmental documents and critical installation infrastructure information.

#### **Distribution Statements for Use on Technical Documents**

In accordance with DoD Directive 5230.2 and OPNAV Instruction 5513.1F, distribution statements will be added on the bottom of the document title page

The Defense Technical Information Center (DTIC) created the six Distribution Statements and the Reasons for Assigning the Statements

[http://www.dtic.mil/dtic/submit/distribution\\_statements.html](http://www.dtic.mil/dtic/submit/distribution_statements.html)

See Appendix N, The Document Data Sheet Form Distribution Statement Guide for further information

#### **The Six Distribution Statements are Designed to**

- Characterize and Limit Document Distribution

- Identify the audience entitled to see a document based on document contents and visual displays
- Facilitate controlling distribution and release of documents
- Alert Records Management, Command FOIA Offices and Office of Counsel that a document has sensitive content and/or information which needs review before release or denial

#### **1. DISTRIBUTION STATEMENT A**

**Approved for public release; distribution is unlimited**

#### **2. 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)**

#### **3. 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)**

#### **4. 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)**

#### **5. DISTRIBUTION STATEMENT E**

**Distribution authorized to DoD components only (reason) (insert date of determination). Other request for this document shall be referred to (insert name of controlling DoD office)**

Restoration Environmental Document Distribution is Not Normally Limited to DoD Components Only

In the event that it is determined that information within a Restoration document is so sensitive that it can only be seen by DoD components, consult with the Office of Counsel to ensure that Distribution Statement E is appropriate and that its use is approved in writing

#### **6. DISTRIBUTION STATEMENT F**

**This Statement may be applied when a document is classified or under rare and exceptional circumstances when specific authority exists or when need-to-know must be verified**

- **Classified documents cannot and will not be added to NIRIS**
- NAVFAC Restoration documents do not have sensitive information which meets the requirement to classify a document as Confidential, Secret or Top Secret
- Consult the Office of Counsel before using this statement

### **Four Reasons to Assign Statements B - D to Environmental Documents**

#### **Specific Authority**

Protects information which requires protection in accordance with a valid documented authority, such as Executive Orders, statutes, and regulations such as FOIA Exemptions (FOIA Exemptions #3 and #6)

#### **Premature Dissemination**

Protects information, documents or systems or processes in the developmental or conceptual stage from premature dissemination (usually FOIA Exemption #5)

#### **Administrative or Operational Use**

Covers publications required solely for official use or strictly for administrative or operational purposes (usually FOIA Exemption #2 – rarely used by Environmental)

#### **Proprietary Information**

May be applicable to some Environmental Restoration documents (FOIA Exemption #4)

### **Protecting Sensitive Information – The Importance of Marking Documents**

The importance of protecting sensitive, critical information from unauthorized release cannot be overstated. Protection of information starts the moment a document is created.

Protecting DoN sensitive environmental information from future release by state or local entities is accomplished by

- Including protective language in memoranda of agreement (MOAs) or Cooperative Agreements with state and local entities that will be receiving environmental documents from the Navy
- Writing strong transmittal or cover letters
- Applying Distribution Statements
- Adding appropriate markings and statement on the paper and electronic versions of the document

All federal agencies must comply with the federal FOIA but state and local entities are not bound by the federal FOIA exemptions. These entities obey their own applicable laws which could be less protective than the federal FOIA and may even require release of documents to the public. Take steps to ensure that unintended releases to the public do not occur.

### **Transmittal and Cover Letters**

The nature of the forwarding of the document should be clearly set forth in a transmittal or cover letter. The letter should state or address all or applicable parts of the following:

- The document is being forwarded to the entity for an official reason with the reason(s) spelled out, such as by reference to the applicable statute or regulation
- The document is being provided for official use only and remains the property of the Navy
- The forwarding of the document to the entity is not a release under FOIA
- The document contains sensitive information and should be appropriately safeguarded
- Direction that if the entity receives a request for the document, they should refer the request to the DoN organization providing the document and notify the requester of the referral

### **Suggested Transmittal Letter Language**

This document is being provided to your organization for official use only and remains the property of the Department of the Navy. Providing this document to you does not constitute a release under the Freedom of Information Act (5 U.S.C. § 552), and due to the sensitivity of the information, this document must be appropriately safeguarded. For example, you may not make the information publicly available, and you must limit disclosure to those who need the information to carry out their duties.

Because this document is being provided for limited purposes, it must be destroyed when it is no longer needed. Should you receive a request for this document or information contained in this document (whether under the Freedom of Information Act, a state version of that act, or any other type of request), you must: 1) refer the request to us at (organization contact information), and 2) notify the requestor of the referral

## **Marking Documents**

The responsibility for properly marking documents with sensitive information rests, in consultation with the Navy Project Manager, with the document creator.

Identification information alerts recipients about the status of the document, its purpose, content and restrictions on further dissemination

Determine the purpose of the document to determine the appropriate document markings. Identify document types in the footer (e.g., Draft, attorney work product or attorney-client privilege)

- Is the document intended for internal use only (e.g., provides legal advice or makes recommendations to a decision maker)?
- Will it be released to the public?
- Will it be submitted to a regulatory agency for review and comment?
- Does the document contain personal information?
- Does the document have other sensitive information protected by a Freedom of Information Act Exemption(s)?
- Does the document need legal review before release?

## **Statements for Documents and Emails Which Should NOT Be Released By the Recipient**

### **Statement for Draft Documents**

- This document is a draft and exempt from release under the Freedom of Information Act (FOIA), P.L. 93-502 (5 U.S.C. § 552), by Exemption 5, 5 U.S.C. § 552(b)(5). Do not release without prior specific approval of the originator or higher authority

### **Statement for Pre-decisional Documents**

This document is pre-decisional and is, or portions are, exempt from release under the Freedom of Information Act (FOIA), P.L. 93-502 (5 U.S.C. § 552), by Exemption 5, 5 U.S.C. § 552(b)(5). Do not release without prior specific approval of the originator or higher authority.

### **Statement for Legal Documents**

FOR OFFICIAL USE ONLY

This document contains confidential attorney work-product and/or information protected under the attorney-client privilege, both of which are protected from disclosure under the Freedom of Information Act, P.L. 93-502 (5 U.S.C. § 552). Do not release without prior specific approval of the originator or higher authority.

**Statement for Legal E-Mails**

FOR OFFICIAL USE ONLY

This electronic transmission may contain work-product or information protected under the attorney-client privilege, both of which are protected from disclosure under the Freedom of Information Act, 5 U.S.C. § 552. Do not release outside of Department of Defense channels without the consent of the originator's office. If you received this message in error, please notify the sender by reply e-mail and delete all copies of this message.

**Statement for Deliberate Process-Related Information Sent via E-Mail**

FOR OFFICIAL USE ONLY

This electronic transmission contains internal matters that are deliberative in nature and/or are part of the agency decision-making process, both of which are protected from disclosure under the Freedom of Information Act, 5 U.S.C. § 552. Do not release outside of Department of Defense channels without advance approval from the sender. If you received this message in error, please notify the sender by reply e-mail and delete all copies of this message.

OR

This document contains confidential attorney work-product and/or information protected under the attorney-client privilege, both of which are protected from disclosure under the Freedom of Information Act, P.L. 93-502 (5 U.S.C. § 552). Do not release without prior specific approval of the originator or higher authority.

**Use Of For Official Use Only (Controlled Unclassified Information)**

Documents or emails which have the designation, For Official Use Only (FOUO), have controlled unclassified information which has not been given a security classification but which may be withheld from the public because disclosure would cause a foreseeable harm

FOUO information can be disseminated within DoD Components and between officials of DoD components and DoD contractors, consultants, and grantees to conduct official business for the DoD

To distribute FOUO information outside of DoD, the policy is:

- Make FOUO records publicly available unless the record qualifies for exemption under one or more of the nine FOIA exemptions
- DoD Commands are encouraged to exercise discretionary releases whenever possible
  - a discretionary release is normally not appropriate for records clearly exempt under FOIA exemptions 1, 3, 4, 6, and 7(F)
  - FOIA Exemptions 2 and 5 are normally discretionary

## **FOUO MARKINGS**

“Portion marking” of unclassified documents containing FOUO information is required by DoD Regulation 5400.7-R.

Mark documents and material containing FOUO information as follows:

- Stamp/mark FOR OFFICIAL USE ONLY at the bottom of the document title page
- Stamp/mark FOR OFFICIAL USE ONLY on pages that contain FOUO at the bottom of the page
- Stamp/mark FOUO at the location of each paragraph containing FOUO information in parentheses at the beginning of the FOUO information.
- Stamp/mark FOUO material other than paper documents (for example, slides, computer media, films, etc.) to alert the viewer

## **Releasing Documents**

If there is a request for a document which contains sensitive information and it is approved for release by Office of Counsel, take the following steps to ensure that sensitive information is protected

- Ensure that pages with sensitive information are properly marked
- Redact words and phrases as directed by Office of Counsel
- Replace pages, as directed by Office of Counsel, with sensitive information using the appropriate slip sheet

- cite the appropriate FOIA Exemption(s) and provide directions for viewing the page

See Appendix X for examples of Fully and Partially Sensitive Slip sheets