

Application of Marking and Distribution Statements on Controlled Technical Information (CTI)

 Tabletop Exercise Summary

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Purpose/Objective

Identification, Marking, and Flow Down of Unclassified Controlled Technical Information (CTI) Tabletop Exercise:

- Overview of technical information requiring protection
- Overview of procedures to identify, mark, and disseminate technical information requiring protection
- Opportunity to explore lessons learned, hands-on experience, and working knowledge of procedures to identify and mark technical information and how it flows through the supply chain
- Opportunity to identify gaps surrounding government implementation of requirements that apply to technical information
- Opportunity to illuminate process gaps
- Opportunity to identify next steps for continued improvement



- Unclassified Technical Information Requiring Protection
- Overview of Protection Requirements
- Overview of Identification, Marking, and Dissemination Requirements
- Identifying, Marking, and Disseminating Technical Information
- Bulldog Exercise / Scenarios
- Identification of Lessons Learned



Notional Unclassified Information Universe

Unclassified Information Legacy Controlled FOUO Technical Information Public Information Export Controlled Technical Information Covered Defense Information/DoD CUI FCI **Controlled Unclassified** (i.e., non-public, non-CUI) Information (CUI) Non - Public Information

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Controlled Technical Information (CTI)

The authoritative source for technical information is DoD Instruction (DoDI) 5230.24, Distribution Statements on Technical Documents:

<u>Technical information is technical data or computer software, as defined in DFARS 252.227-7013. Examples include:</u>

- 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
- Computer software executable code and source code

<u>Controlled Technical Information (CTI)</u> is <u>technical information</u> with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination.

- If disseminated meets the criteria for distribution statements B through F as set forth in DoDI 5230.24
- Does *not* include information that is lawfully publicly available without restrictions

When providing CTI to the contractor in support of the performance of the contract, CTI must be marked or otherwise identified in the contract, task order, or delivery order



Protection Requirements Codified in the FAR and DFARS

Information	Coverage in the FAR and DFARS	Req'ts for Protection		
Federal Contract Information (FCI) (i.e., non-public, non-CUI)	FAR 52.204-21, Basic Safeguarding of Contractor Info Systems (Requires contractor to apply basic safeguarding requirements to information systems that process, store, or transmit FCI)	FAR contains subset of NIST SP 800-171 (as documented in 8582.01)		
Controlled Technical Information (CTI)	DFARS 252.204–7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (Requires contractor to implement NIST SP 800-171 to safeguard	NIST SP 800-171		
Covered Defense Information (includes CTI)	covered defense information - to include unclassified CTI – on the contractor's unclassified information system)	(as documented in 8582.01) NIST SP 800-172 (DoD implementation pending)		
(includes CTI) Controlled Unclassified	FAR Case 2017-016, Controlled Unclassified Information (Proposed Rule – pending publication)			
Information (CUI) (includes covered defense information and CTI)	Implements NARA CUI program which provides regulations to address agency policies for designating, safeguarding, disseminating, marking, decontrolling, and disposing of CUI			
Controlled Unclassified Information (CUI)	DFARS 252.204-7019/7020, Assessing Contractor Implementation of Cybersecurity Requirements			
(includes covered defense information and CTI)	Requires contractor to have a current NIST SP 800-171 DoD Assessment (and refers to NIST SP 800-171A) for each covered contractor information system that is relevant to the offer, contract, task order, or delivery order.	NIST SP 800-171		

When a contract includes these provisions/clauses – you should not duplicate the protection/assessment requirements elsewhere in the contract

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Overview of Relevant Policy/Guidance

DoDI 5000.83, Technology & Program Protection to Maintain Technological Advantage

- Reinforces responsibilities for S&T managers and engineers to manage and control the breadth of technical information to include the identification, marking, and dissemination of CTI
- DoDI 3200.12, DoD Scientific and Technical Information Program (STIP)
 - Establishes a coordinated program to manage scientific and technical information created or acquired in the execution of science and technology programs consisting of basic research, applied research, and advanced technology development programs
- DoDI 5230.24, Distribution Statements on Technical Documents
 - Establishes procedures for marking CTI and assigning distribution statements and warning labels
- DoDD 5230.25, Withholding of Unclassified Technical Data from Public Disclosure
 - Assigns responsibilities for the dissemination/withholding of technical data that discloses critical technology (export controlled) with military
 or space application
- DoDI 2040.02 International Transfers of Technology, Articles, and Services
 - Assigns responsibilities, and prescribes procedures for the international transfer of dual-use and defense-related technology, articles, and services
- ITAR (22 CFR Sections 120-130) and EAR (15 CFR Sections 730-774)
- DoDI 5200.48, Controlled Unclassified Information (CUI)
 - Assigns responsibilities, and prescribes procedures for CUI throughout DoD in accordance with Executive Order (EO) 13556 and other authorities



ITAR vs. EAR – Which Applies?

Regulation	Regulates	Governing Agency	Documentation
ITAR	Defense articles and defense services	U.S. Dept of State, Directorate of Defense Trade Controls (DDTC)	United States Munitions List (USML)
EAR	Commercial/dual-use items and technology	U.S. Department of Commerce Bureau of Industry & Security (BIS)	Commerce Control List (CCL)

If you are unsure whether your item is controlled by ITAR or EAR, contact your International Program Office for assistance with the following:

- Determine what governing agency is responsible for the jurisdiction, licensing, policy and enforcement of your items.
- Conduct a thorough review of the USML. Your customer may be able to provide you with information about the item and its end-use that can be helpful/
- Obtain a Commodity Jurisdiction (CJ) from DDTC to understand which regulation applies.

Although different in terms of structure, administration, and items controlled, both the ITAR and EAR seek to protect U.S. national security by preventing the unauthorized export of controlled items



Identification and Marking of CTI

DoDI 5230.24 – Distribution Statements on Technical Documents

Dissemination Limitation	Category / Reason	Date	Controlling Org
Distribution A: Public Release* Distribution B: U.S. Govt Only Distribution C: U.S. Govt & Contractors Distribution D: DoD & US DoD Contractors Distribution E: DoD only Distribution F: Further dissemination only as directed by controlling office	Administrative or Operational Use Contractor Performance Evaluation Critical Technology Direct Military Support Export Controlled Foreign Government Information Operations Security Premature Dissemination	Note: Reason Determination Date	Note: Controlling Org can be different than the Authoring Org
* For CUI developed by or for the government apply Distro A: Public Release – NO Dissemination limitation	Proprietary Information Software Documentation Specific Authority Test and Evaluation Vulnerability Information	DoD Pol establishe	

Example of Marking for Distribution Statement E

Distribution authorized to DoD only; Proprietary Information; 15 Apr 2017. Other requests for this document shall be referred to AFRL/VSSE, 3550 Aberdeen Ave. SE, Kirtland AFB, NM 87117-5776. REL TO UK

Example of Marking for Export Control Warning (Also requires separate distribution statement)

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 Control Reform Act of 2018 (Title 50, U.S.C., Chapter 58, Sec. 4801-4852). Violations of these export laws are subject to severe criminal penalties. Disseminate in accordance with provisions of DoD Directive 5230.25.



Marking and Identifying CTI

S&T Managers/Engineers/Program Offices/Requiring Activities must:

- Mark or otherwise identify Controlled Technical Information (CTI) provided to the Contractor as Government Furnished Information (GFI)
- Direct appropriate marking and dissemination requirements for CTI in the contract when CTI is to be acquired

Contractor requirements to safeguard CTI in accordance with DFARS 252.204-7012 apply <u>only when</u> CTI is marked or otherwise identified in the contract

The Contractor must follow the terms of the contract, to include:

- Implementing the marking and dissemination requirements contained on GFI
- Marking CTI that is collected, developed, received, transmitted, used or stored in support of the performance of the contract
- Determining if information provided to subcontractors retains identify as CTI (consult with contracting office if/as required)
- Include DFARS Clause 252.204-7012 in subcontracts that require CTI for subcontractor performance

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Marking and Dissemination Guidance

The Contract

• Guidance may be found in Statement of Work, Contract Clauses, CDRLs, DIDs, SCGs, etc.

DoDI 5230.24, Distribution Statements on Technical Documents

- Establishes markings for managing, sharing, safeguarding, and disseminating technical documents in accordance with policy and law
- Provides Distribution Statements for Use on Technical Documents

CTI must be marked with distribution statements in accordance with DoDI 5230.24

DD Form 254, DoD Contract Security Classification Specification

- Provides Contractors/Subcontractors with security requirements and classification guidance in contracts involving access to classified information
- Guidance for CUI can be found here if the program also includes classified information

DoDI 5200.48, CUI

- Establish policy for designation/safeguarding/decontrolling CUI; establish DoD CUI Registry
- Provides marking guidelines for unclassified and classified documents containing CUI

Program offices/requiring activities are not required to modify existing contracts solely to comply with DoDI 5200.48 or to address updates to the DoD CUI Registry



Defense Categories / "Reasons" to Assign Distribution Statement B-E (DoDI 5230.24)

Reason		С	D	Е
Administrative or Operational Use		X	X	X
Contractor Performance Evaluation	Х			X
Critical Technology *	X	X	X	X
Direct Military Support *				X
Export Controlled *		X	X	X
Foreign Government Information		X	X	X
Operations Security				X
Premature Dissemination				X
Proprietary Information				X
Test and Evaluation				X
Software Documentation		Х	X	X
Specific Authority		Х	X	X
Vulnerability Information		X	X	X

* Indicates information will be marked with an Export Control Warning

Frequently used reasons highlighted in blue – in depth discussion to follow

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Marking and Identifying CTI

Distribution Statements A – F

DISTRIBUTION STATEMENT A	Approved for public release: distribution unlimited.
DISTRIBUTION STATEMENT 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 STATEMENT 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 STATEMENT D	Distribution authorized to DoD and U.S. DoD contractors only (reason) (date of determination). Other requests for this document shall be referred to (controlling DoD office).
DISTRIBUTION STATEMENT E	Distribution authorized to DoD Components only (reason) (date of determination). Other requests for this document shall be referred to (controlling DoD office).
DISTRIBUTION STATEMENT F	Further dissemination only as directed by (controlling office) (date of determination) or higher DoD authority.



Example* of Marking Directions for Controlled Technical Information

1. DATA ITEM NO A012	SOFTWARE R	EQUIREMENT	S SPECIFICATION EMENTS	3. SUBTI	TLE			
4. AUTHORITY (D DI-IPSC-8143	ita Acquisition Doc. No.) BA	5. CONTRACT R SOW Paragr D.3.2, F.8	EFERENCE aphs A.2.1, A.6.3, B.2.	١,	6 REQUIRING OF PMS425	FICE		
7. DD 250 REQ LT	9. DIST STATEMENT REQUIRED	10 FREQUENCY ASREQ	12. DATE OF FIRST SUBM: SEE BLOCK 1	1	14, DISTRIBUTION			
8. APP CODE	D	11. AS OF DATE	13. DATE OF SUBSEQ SUB	MSSN		1	. COPIE	S
A	(SEE BLK 16)	N/A	SEE BLOCK I	6	a ADDRESSEE		Fi	nal
16 REMARKS						Draft	Reg	Repr
BLOCK 4: DI-	PSC-81434A contain	s the IRS requirem	ents to be included in the	SRS	PMS425		1	0
		, me nue requirem			NUWC DMO	1	i	0
Anone and an and a feature of the second sec			ation authorized to the		PMS425DMO	1	1	0
			r Administrative or Opera	ational	PCO026	1	1	0
Submarines, PMS	Other requests shall b	e referred to Progi	ram Executive Office,		ACO	1	1	0
Summaries, Pivi	420.							
Release to Austra	lia authorized under th	e BYG-I Armam	ent Cooperative Program.					
the Arms Expo Control Reform Violations of th	rt Control Act (Title 2	2, U.S.C., Sec 27), U.S.C., Chapter subject to severe (•					
will not be releas the Navy of the L individual or corp be respected and; afforded it by the	d to another nation w S.; that it will not be orate rights originating that the information w Department of Defens it may not be declass	ithout specific auth used for other than g in the informatio vill be provided the se of the U.S. Reg	knowledge of its possession ority from the Department military purposes; that on, whether patented or not e same degree of security ardless of any other mark and without the written app	nt of 1, will ings				
BLOCKS 10, 12 at CDR closure.	and 13: Draft submit	tal fifteen (15) day	s prior to PDR. Final sub	mittal				

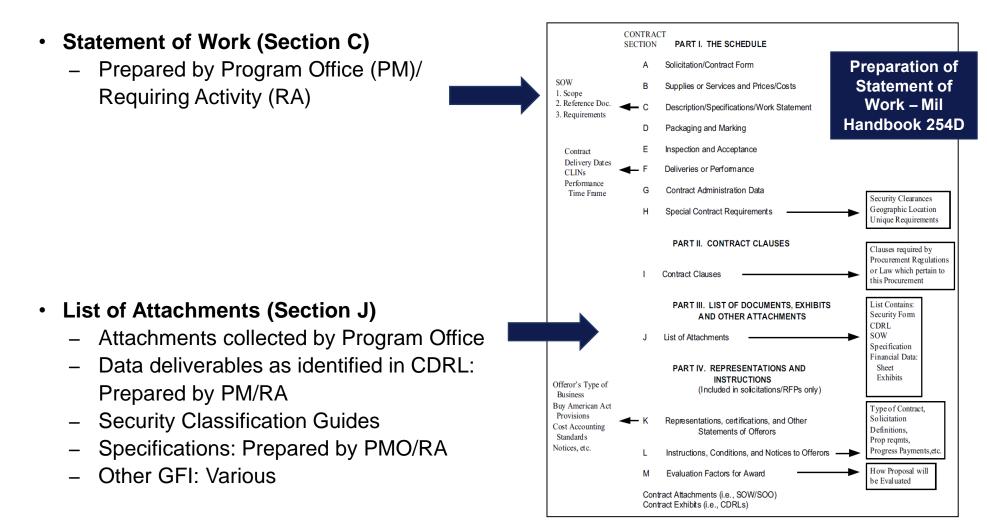
A Cooperative Program Example

- Information can be shared with:
 - DoD and DoD contractors
 - Australia, in accordance with the PMO agreement
- Information has export control requirements
- International markings are currently not consistent with U.S. markings

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Contained in publicly released solicitation
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CTI in Solicitations and Contracts

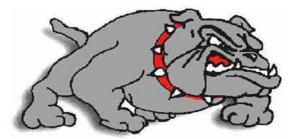


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Bulldog Exercise / Scenarios

- Exercise Instructions
- Scenarios to Determine, Identify and Mark CTI
 - 1. Initial Capabilities Document (ICD)
 - 2. System Performance Specification
 - 3. Systems Engineering Plan (SEP) and Systems Engineering Management Plan (SEMP)
 - 4. Use of Capability Development Document (CDD)
 - 5. CTI Provided to Contractor by DoD
 - 6. CTI Created by the Contractor



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Exercise Instructions

- Identify reasons to control technical information (i.e., Administrative or Operational Use, Critical Technology, Export Controlled, Foreign Government Information, Operations Security, Proprietary Information, Vulnerability Information)
- Identify marking requirements for DoD, prime, subcontractors, suppliers
- Identify distribution statements to apply to CTI (*i.e., B, C, D, E, or F*)
- Determine types of technical information included in flow down (i.e., public information or CTI)
- Track identified program data as it flows from DoD, to prime, to subcontractors
- Break out CUI categories in the data flow descriptions for tracking purposes (*i.e., reasons and distribution statement*)
- Identify best practices for limiting flow of information

Assumption: For the purposes of this exercise – all technical information has been determined to be 'unclassified'

It is the objective of this exercise to identify appropriate markings for controlled technical information



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Scenario 1: Initial Capabilities Document (ICD)

- Unmanned Ground Vehicle (UGV) Systems must:
 - Be expeditionary with lethal and non-lethal capabilities that are versatile, agile, sustainable, survivable, and <u>capable to transition across the</u> <u>spectrum of operations.</u>
 - U.S. Government agencies and their contractors (Reason: Critical Technology)
 - Provide <u>persistent surveillance for situational awareness</u>. Can provide <u>force application</u>, including targeting, lethal fires, and non-lethal effects, <u>while protecting the force through standoff from threat capabilities</u>.

DoD Components only (Reason: Operational Security)

 <u>Utilize distributed network control-communication architecture</u> which allows for flexible integration/operation of multiple remote sensor systems/control stations. Architecture must provide flexibility in future integration with <u>evolving military digital radio networks</u> (i.e. Army's Tactical Internet/DARPA's Warfighter Internet).



- Provide <u>options not available to meet an urgent need</u>. Needed <u>operational capabilities are not provided</u> in any near term integrated combat system, <u>putting soldiers, airmen, and marines in inordinately high-risk situations.</u>
 - DoD and U.S. DoD contractors only (Reason: Critical Technology)
- Capable of conducting operations in <u>all operational environments, including hot/basic/cold.</u>
 - U.S. Government agencies and their contractors (Reason: Critical Technology)

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Scenario 1: Initial Capabilities Document (ICD)

- <u>Potential for allied cooperation</u> deemed high due to <u>multi-mission/multi-role nature</u> of UGVs, i.e., Export Controlled or Federal Government Information
 - U.S. Government agencies and their contractors (Reason: Foreign Government Information)
- Potential alternatives limited to UGV Systems, components, and technologies already fielded and/or in production, <u>technologies in</u> <u>advanced development (e.g., Joint Capability Technology Demonstration (JCTD))</u>, and those slated for production within 3-4 years. <u>Emerging and later maturing technologies</u> may be considered for future insertion to meet objective system requirements.
 - DoD and U.S. DoD contractors only (Reason: Critical Technology)
- Standardization/Interoperability: The UGV System must have appropriate levels of <u>standardization and interoperability</u> with the <u>other</u> <u>Services, allies, and coalition partners.</u>
 - U.S. Government agencies and their contractors (Reason: Foreign Government Information)
- Infrastructure Support: The UGV System must be supportable by current and projected combat support and service support assets. They must be <u>transportable in an operational configuration in strategic and tactical air transportation aircraft</u>. UGV Systems <u>must also</u> <u>be capable of transport on unrestricted highway, rail, maritime</u> prepositioned ships, amphibious ships, amphibious landing craft, and <u>other marine transport worldwide</u>.
 - U.S. Government agencies and their contractors (Reason: Vulnerability Information)



Scenario 2: System Performance Specification

The Bull Dog UGV System will be <u>used in a variety of critical, high risk</u> warfighting situations requiring an integrated suite of unmanned air and ground vehicles across the spectrum of conflict.



U.S. Government agencies and their contractors (Reason: Critical Technology)

Capable of independent operations, ... will carry onboard weapons <u>with</u> <u>the capacity to destroy fixed and mobile targets.</u>

D DoD Components only (Reason: Critical Technology)

The UGV System will also be <u>capable of line-of-sight (LOS) remote control</u> <u>from the Joint Command and Control System (JCCS) and non-LOS</u> (NLOS) control via relay using participating UAV assets.

D DoD Components only (Reason: Critical Technology)

Missions include: <u>intelligence; RSTA; mine detection; direct and indirect</u> <u>fire support; attack of moving targets; reduction of bunkers and other</u> <u>strong point defenses; and communication of target locations to indirect</u> <u>fire and command and control systems ...</u>

D DoD Components only (Reason: Critical Technology)

These missions will be *performed predominately in areas too hazardous* to send humans or manned vehicles. The Bull Dog UGV will be <u>capable of</u> operating in Biological/Chemical (BC) contaminated environments.

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DoD Components only (Reason: Critical Technology)





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Scenario 4: Capability Development Document (CDD)

Joint Capability Areas (JCAs) - Description, Metrics, Minimum values

- Force application Engagement
- Protect Prevent Mitigate
- Command and Control Understand

DoD and U.S. DoD contractors only (Reason: Critical Technology)

CDD Requirements

- Dissemination of Target Data
 - **D** DoD and U.S. DoD contractors only (Reason: Critical Technology)
- Probability of Detect (Pd) for Mines

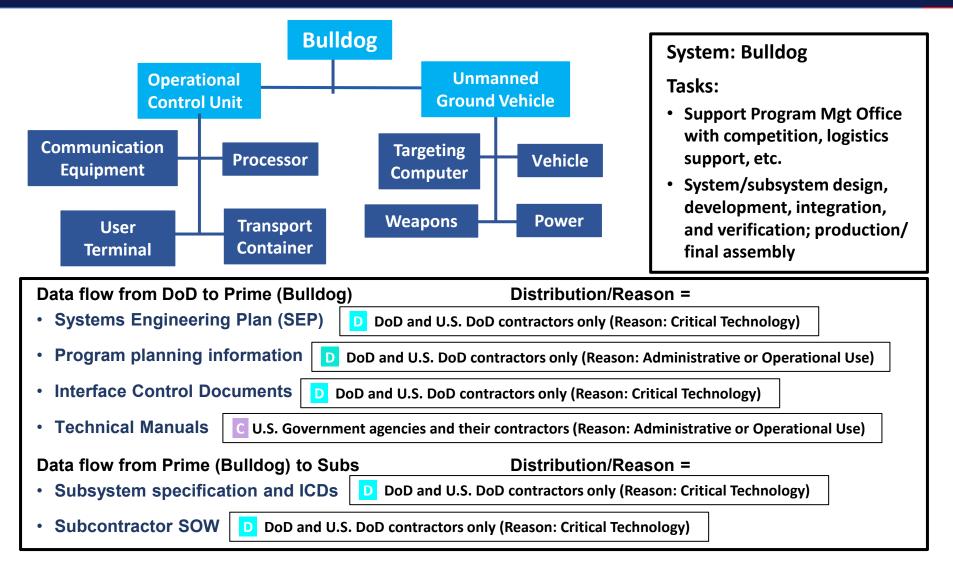
D DoD and U.S. DoD contractors only (Reason: Critical Technology)

- Unrefueled Range (i.e., Mission range from Operator Control Unit (OCU) unrefueled)
 - U.S. Government agencies and their contractors (Reason: Critical Technology)
- Minimum Top Speed
 - DoD and U.S. DoD contractors only (Reason: Critical Technology)
- Probability of Kill (Pk) in Autonomously Targeting and Launching One or More Weapons
 - U.S. Government agencies and their contractors (Reason: Critical Technology)

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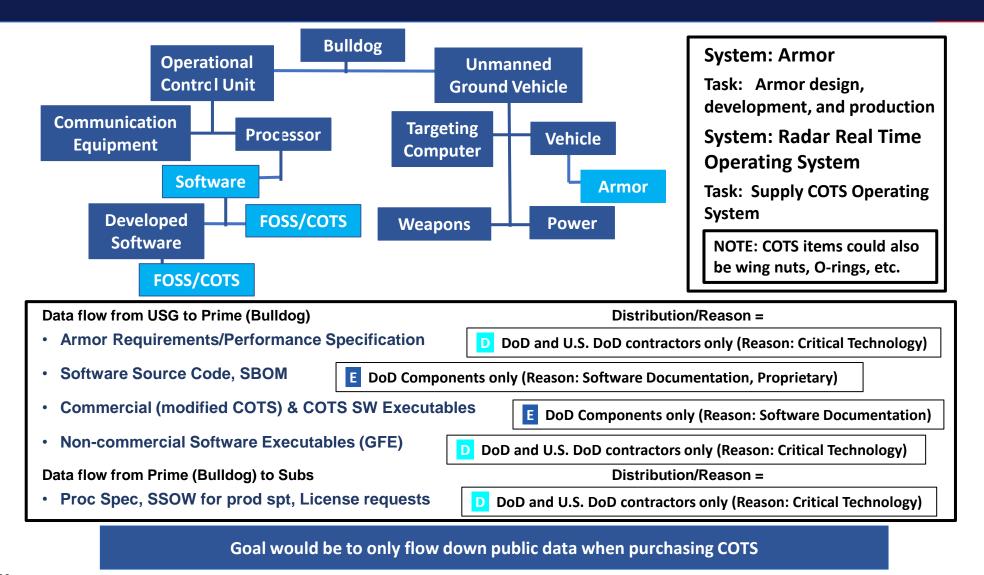


Scenario 5: CTI Provided to Contractor by DoD





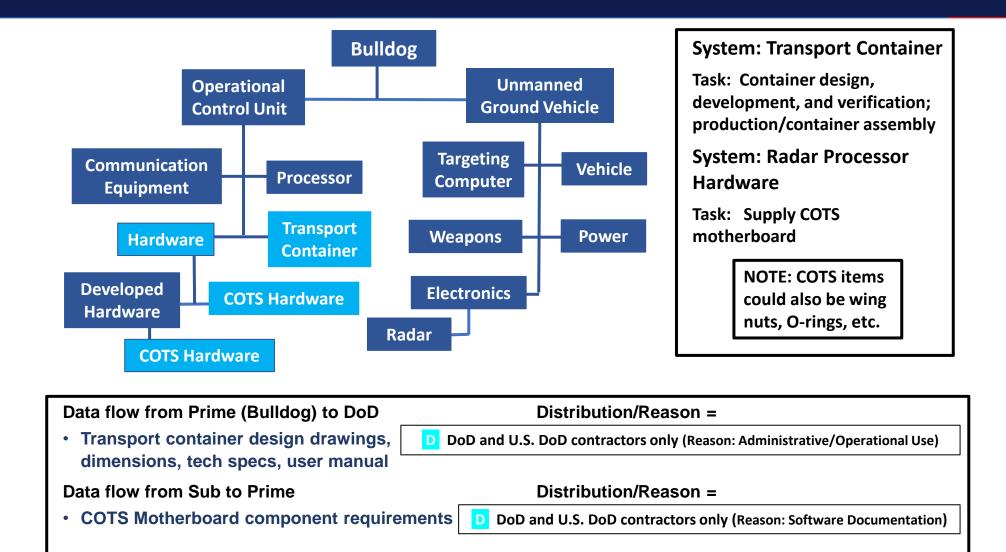
Scenario 5: CTI Provided to Contractor by DoD



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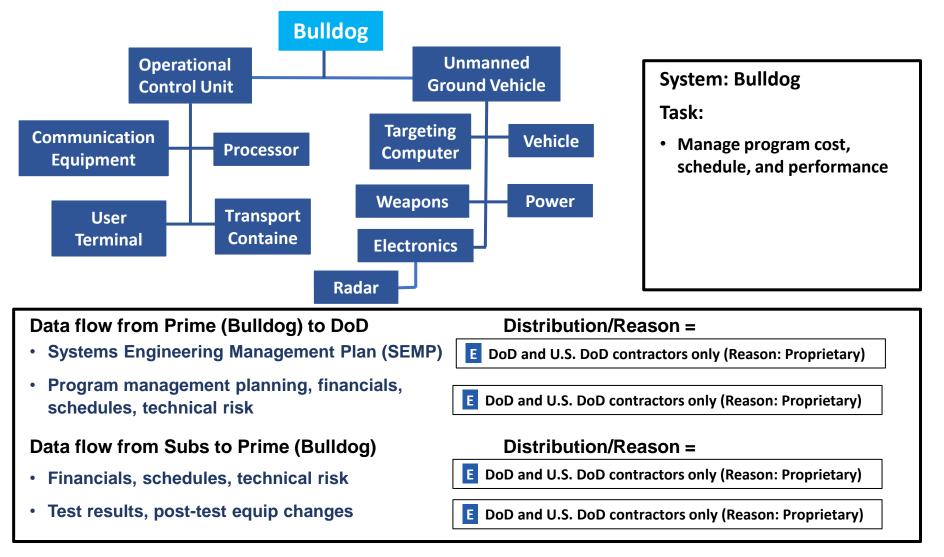


Scenario 6: CTI Created by the Contractor





Scenario 6: CTI Created by the Contractor



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 Provide Exercise through Defense Acquisition University (DAU) webinar that steps through Bulldog scenarios

• Use feedback to refine the training

• Work with DAU to integrate training into their curriculum