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Issues With Access to Acquisition Data & Information in the Department of Defense: Policy & Practice

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Access to and Management of Acquisition Data in DoD

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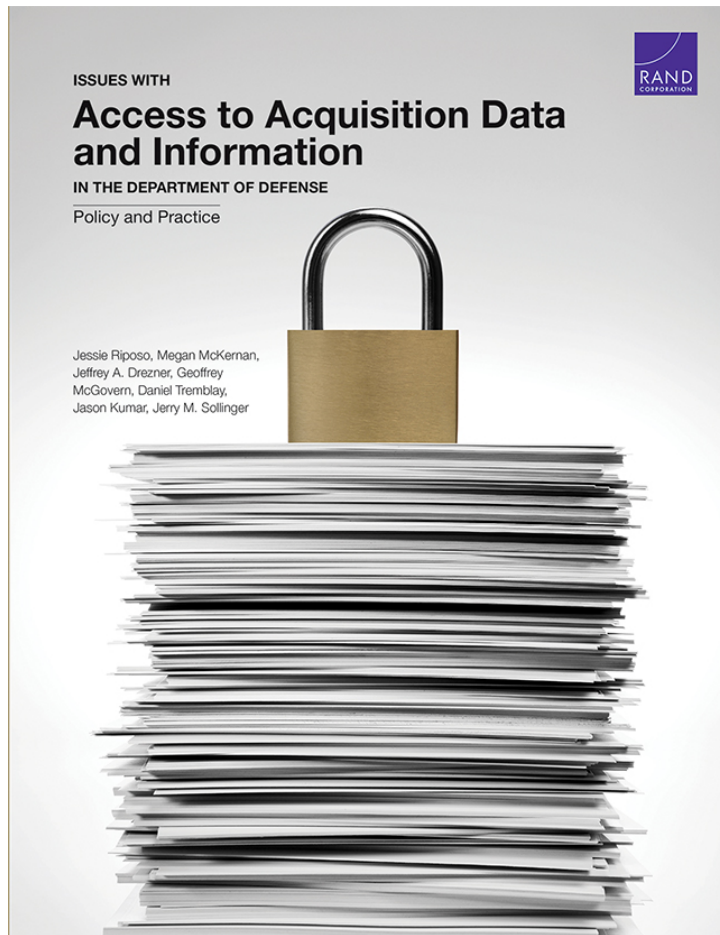
Megan McKernan and Jessie Riposo, RAND National Security Research Division

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Acquisition Data Access Issues Need AT&L Ownership and Resolution

- **Government, FFRDCs, and direct support contractors may lack access to acquisition data and information needed for their roles in acquisition**
 - **Prime contractors provide acquisition data, specifically controlled unclassified information (CUI), to the government**
 - **Government wants these data available for analysis to help decision making**
- **Lack of acquisition data can lead to**
 - **Worse decisions**
 - **Duplicated efforts**
 - **Loss of productivity**

OUSD(AT&L)/ARA, PARCA, and OSD CAPE Asked RAND to Define Challenges and Options



- **Phase 1 research**
 - Identify and describe acquisition data sharing problems and evaluate data sharing policy
 - Research featured structured discussions with 67 acquisition professionals from 18 separate offices
- **Phase 2 goes deeper into several specific issues**
 - Evaluate how marking/labeling Controlled Unclassified Information (CUI) procedures, practices, and security policy affect needed access to acquisition oversight data
 - Conducted structured discussions with information managers; analyzed origins of commonly-used acquisition data markings

Many Interviewees Described Inefficient Data Access Processes

GOVERNMENT

“Each account I create is like 5 touch points between an email, phone call, their POC, certificate handling, vetting. It’s a lot of work.”

FFRDC

“I couldn’t get access because I didn’t have a .mil e-mail address, so I had to go to the Pentagon to access the data.”

GOVERNMENT FOR FFRDC AND DIRECT SUPPORT CONTRACTOR

“If there are dozens of support contractors and dozens of prime contractors and I have to get an NDA for each support contractor and prime contractor combination, it’s a lot of work.”

GOVERNMENT ON BEHALF OF FFRDC

“The sponsor has to have access to the central repository, then request a download of several documents I need, then transfer the data to me.”

GOVERNMENT

*“It took me three months, multiple e-mails and phone calls, to get a one hour meeting with five SESs to view data that *might* be proprietary.”*

Overall, We Found that DoD Struggles With a Variety of Data Access Challenges



- **Third parties (e.g., FFRDCs) must establish multiple agreements to view some data**



- **Data access policy is highly decentralized, not well known, and subject to a wide range of interpretation**



- **Marking criteria are not always clear or consistent**



- **Institutional and cultural barriers exacerbate data sharing issues—even within the government**

Government and Contractors Rely Upon Access to Proprietary Data

Prime contractors provide data on their programs . . .



LOCKHEED MARTIN

F-35



Trident II



LCS



BOEING

KC-46A



P-8A



GENERAL DYNAMICS

WIN-T



M1



**Hundreds of smaller firms
— and other programs**

Government and Contractors Rely Upon Access to Proprietary Data

... to DoD and its support contractors ...



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GENERAL DYNAMICS

WIN-T



M1



**Hundreds of smaller firms
— and other programs**



Government and Contractors Rely Upon Access to Proprietary Data

... who make data available to users ...



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GENERAL DYNAMICS

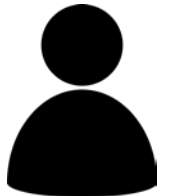
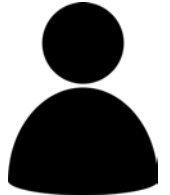
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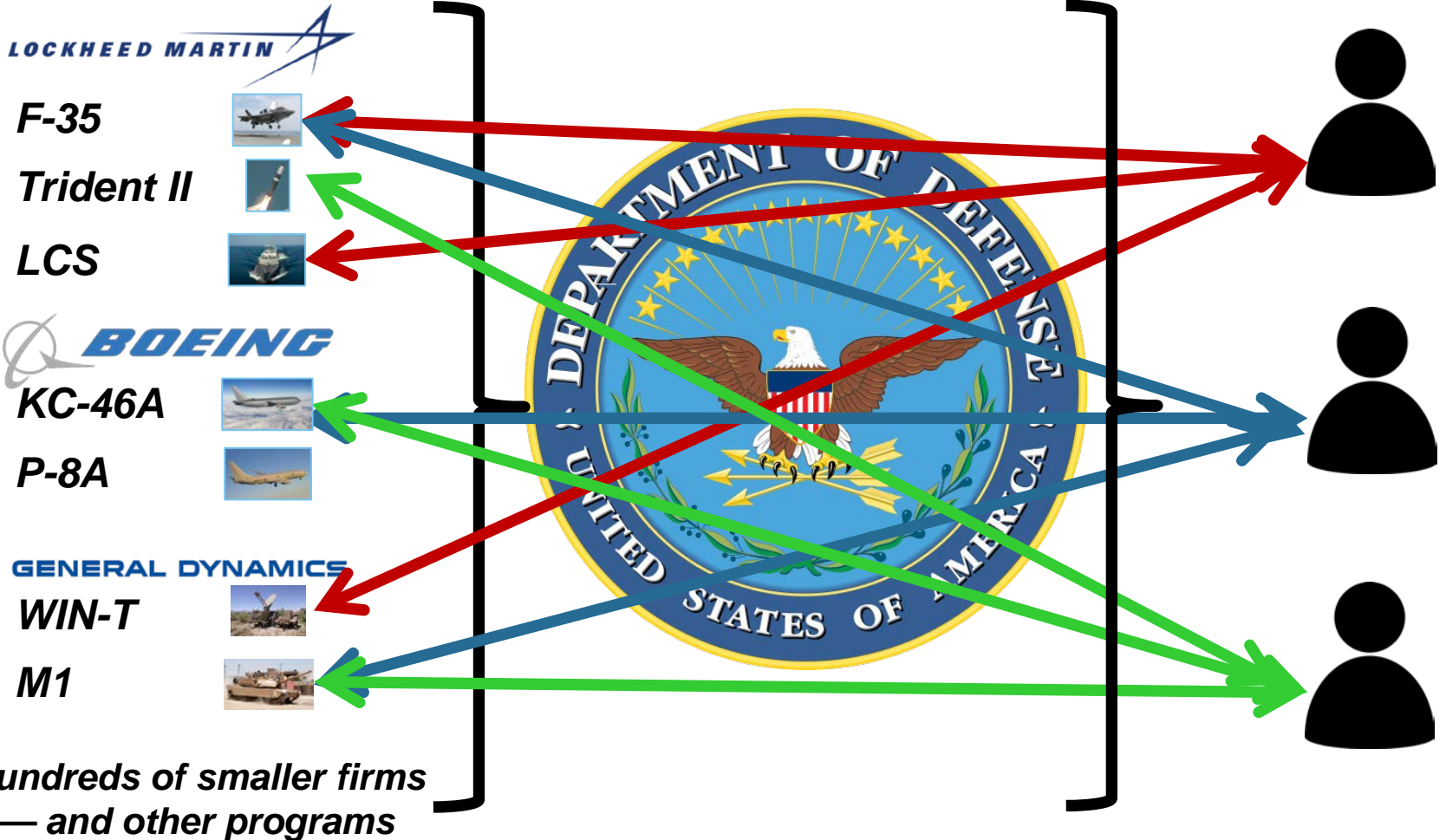


*Hundreds of smaller firms
— and other programs*



Government and Contractors Rely Upon Access to Proprietary Data

... but users must have NDAs with each program



RAND Identified Possible Options to Improve Access to PROPIN



FAR 35.017 could be used to grant FFRDC staff access to all relevant information

- Improves quality of analytic support to DoD**
- Initial contact with FAR Council staff indicated DoD interpretation is different from other USG agencies**
- Relieves administrative burden of dealing with large number of non-disclosure agreements (NDAs)**
 - Right now, ~100 NDAs for each person**
- Could consider focused changes to regulations and/or law to handle for-profit contractor PROPIN access**
 - Law already addresses contractors supporting litigation and contractor access to “technical data”**
 - May be possible to change contracts and require one-to-many NDA, instead of one-to-one NDA**

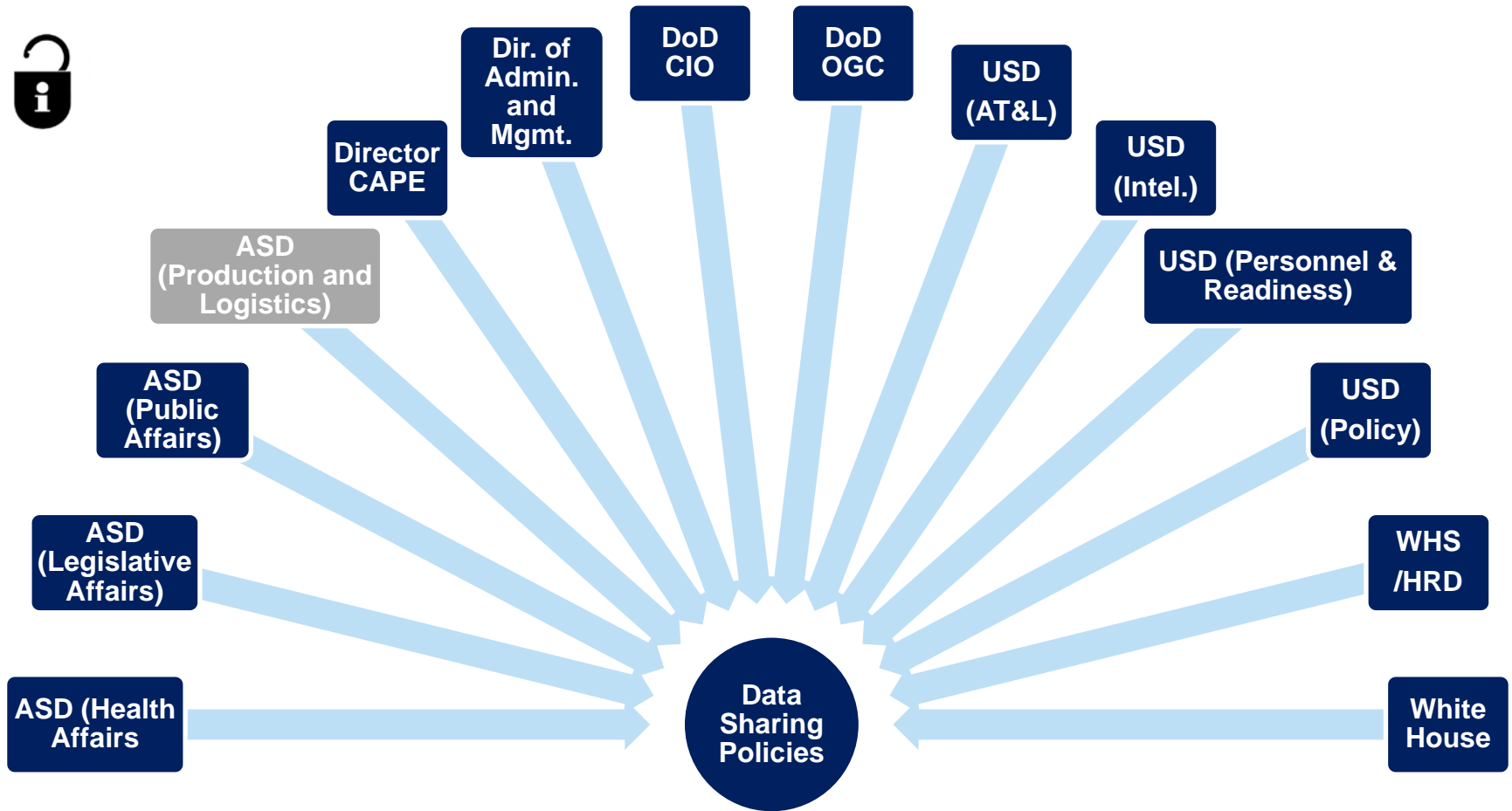
DoD Pursuing Legal Change to Ease Access to Acquisition Data



- **Discussions with AT&L and OGC revealed**
 - Legal interpretation limits options
 - AT&L staff considered 2 options for FY17
 - 1 for FFRDCs; 1 for support contractors
- **Final AT&L legislative proposal would create new provision specifically for FFRDCs**
 - Addresses PROPIN and other sensitive info
- **Changing law does not solve the problem in the short term but other options may provide relief**

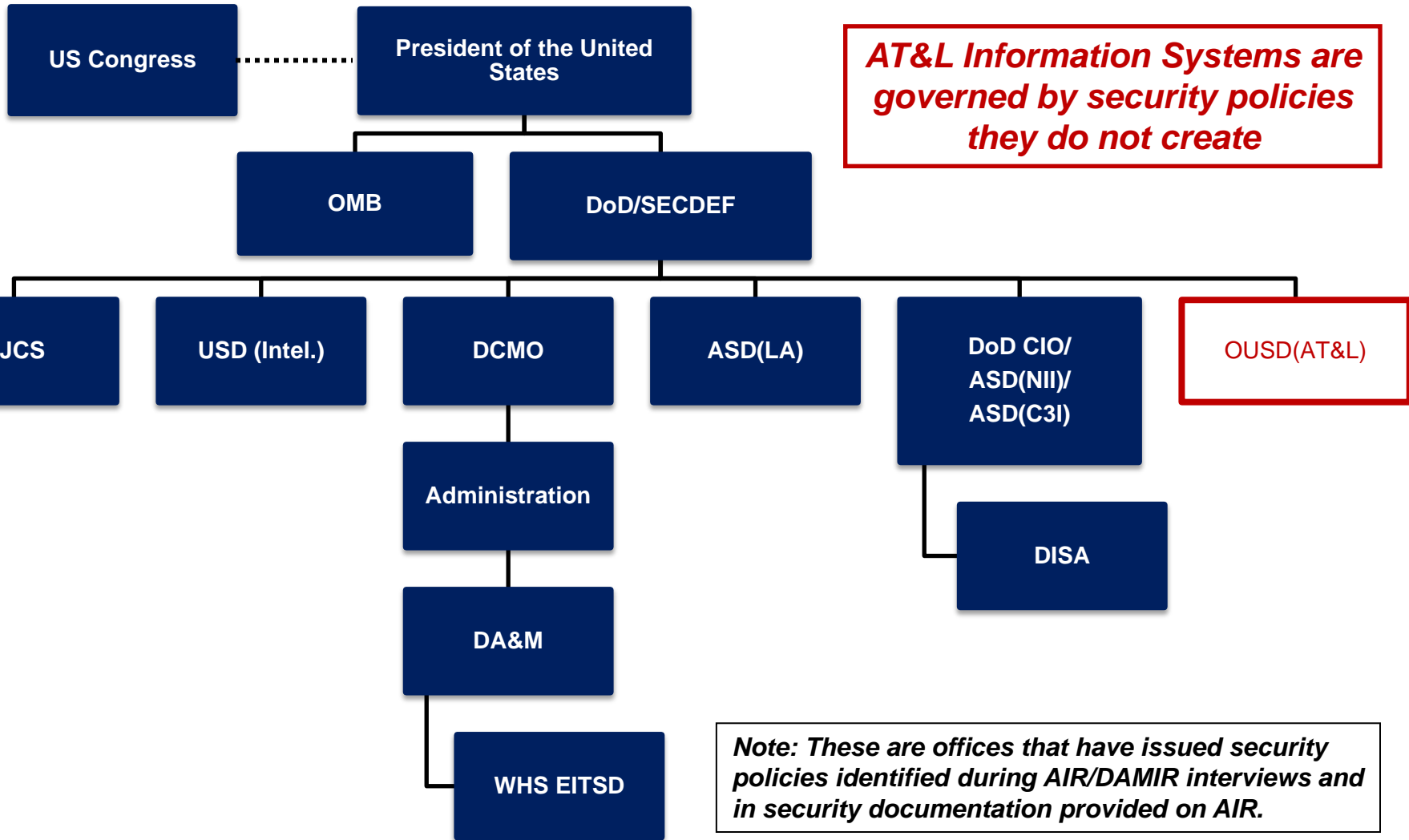
Conclusion: AT&L will continue to struggle with the inefficiencies of NDAs

Another Complication: Many Offices Issue DoD Data Management, Access, Release, & Handling Policy



Leads to policy decentralization, inconsistency, and workforce confusion

Multiple Authorities Issue and Interpret Implementation of Security Policies



AT&L Information Systems are governed by security policies they do not create

Note: These are offices that have issued security policies identified during AIR/DAMIR interviews and in security documentation provided on AIR.

Law, Regulation, and Policy Governing Access and Management of Data Are Not Well Known

General discussions regarding policy and data sharing indicate clarification is needed in multiple areas:

- **What constitutes legitimate rationale for gaining access to data?**
- **Who is responsible for removing the caveats when something is no longer source sensitive or classified?**
- **Who can correct a label on a document that is clearly wrong?**
- **What determines “need to know?”**
- **What determines “Government only?”**
- **Do we have a policy that access to data should be written into all contracts?**
- **Is there policy/guidance which dictates where information can flow?**

More specific discussions covered PROPIN, FOUO, and contractor roles:

- **What can be considered PROPIN?**
- **Who can determine if something is PROPIN?**
- **What is the policy for releasing PROPIN?**
- **What constitutes FOUO?**
- **Is there guidance on FOUO sharing?**
- **How can FOUO be remarked?**
- **Can FFRDCs and UARCs be considered direct support/direct report?**
- **Is there a policy for granting FFRDCs Special Access Permissions?**
- **Is there any clarifying guidance on how to work with FFRDCs?**

Determining Information Protection (Marking) Plays a Significant Role In Access




- **Policy → owner's/creator's responsibility to mark and grant access to data**
- **However, marking criteria are not always clear nor consistently applied, which can lead to**
 - **Incorrect markings at the individual level**
 - **Decisions favoring protection rather than sharing data, given many disincentives but few incentives to sharing data**
- **Most commonly used CUI labels have a basis in law or policy, but method to protect and control access is not always defined**

Additional Issues Regarding Marking Data



- **Difficult to change improperly marked information**
 - **Offices and individuals change over time**
 - **If originator is not available, others may not accept responsibility of re-marking**
- **No alternative process for challenging markings**
 - **Only real forcing functions to challenge a label are external FOIA requests**
- **When information is not marked, the burden of handling decisions is placed on the receiver**
- **Reliance upon past practices to determine data management and handling procedures**

DoD's Institutional Structure and Culture Exacerbate Access Challenges

- 
- A stylized icon of a stovepipe, consisting of a vertical line on the left and several diagonal lines on the right, representing a siloed or stovepipe structure.
- **Stovepipe structure limits data visibility across DoD and ability to conduct cross-cutting analyses**
 - **Policies are created by organizations with different missions and business needs than those interpreting and implementing them**
 - **Lack of trust and established relationships hinders access; in established relationships, data flows more freely**
 - **Our discussions found organizational leaders do not always promote sharing between or within organizations**

USD(AT&L) and CAPE Should Provide Guidance and Training on CUI

- **Develop guidance on how to determine whether information is proprietary**
- **Create and maintain central, authoritative online resource that references all relevant guidance**
- **Add a CUI data identification and protection module to the annual IT online training for AT&L staff and contractors**
- **Improve, develop, and use mechanisms for challenging labels**

Continue to lead efforts to improve data sharing



USD(AT&L) Should Formalize a Data Management Function

- **Responsibilities should include:**
 - **representing AT&L interests for acquisition data in DoD forums**
 - **managing data policy and data issues for AT&L**
 - **categorizing acquisition data into CUI categories**
 - **exploring additional options to resolve proprietary data access challenges**

Acquisition data access issues need AT&L ownership and resolution



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Questions

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