



Highlights of [GAO-06-531T](#), a testimony to the Chairman, Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, House of Representatives

Why GAO Did This Study

In the interest of national security and personal privacy and for other reasons, federal agencies place dissemination restrictions on information that is unclassified yet still sensitive. The Department of Energy (DOE) and the Department of Defense (DOD) have both issued policy guidance on how and when to protect sensitive information. DOE marks documents with this information as Official Use Only (OUO) while DOD uses the designation For Official Use Only (FOUO). GAO was asked to (1) identify and assess the policies, procedures, and criteria DOE and DOD employ to manage OUO and FOUO information; and (2) determine the extent to which DOE's and DOD's training and oversight programs assure that information is identified, marked, and protected according to established criteria.

What GAO Recommends

In its report issued earlier this month, GAO made several recommendations for DOE and DOD to clarify their policies to assure the consistent application of OUO and FOUO designations and increase the level of management oversight in their use. DOE and DOD agreed with most of GAO's recommendations, but partially disagreed with its recommendation to periodically review OUO or FOUO information. DOD also disagreed that personnel designating a document as FOUO should mark it with the applicable FOIA exemption.

www.gao.gov/cgi-bin/getrpt?GAO-06-531T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Davi D'Agostino at (202) 512-5431 or Gene Aloise at (202) 512-3841.

MANAGING SENSITIVE INFORMATION

DOE and DOD Could Improve Their Policies and Oversight

What GAO Found

As GAO reported earlier this month, both DOE and DOD base their programs on the premise that information designated as OUO or FOUO must (1) have the potential to cause foreseeable harm to governmental, commercial, or private interests if disseminated to the public or persons who do not need the information to perform their jobs; and (2) fall under at least one of eight Freedom of Information Act (FOIA) exemptions. While DOE and DOD have policies in place to manage their OUO or FOUO programs, our analysis of these policies showed a lack of clarity in key areas that could allow inconsistencies and errors to occur. For example, it is unclear which DOD office is responsible for the FOUO program, and whether personnel designating a document as FOUO should note the FOIA exemption used as the basis for the designation on the document. Also, both DOE's and DOD's policies are unclear regarding at what point a document should be marked as OUO or FOUO and what would be an inappropriate use of the OUO or FOUO designation. For example, OUO or FOUO designations should not be used to conceal agency mismanagement. In our view, this lack of clarity exists in both DOE and DOD because the agencies have put greater emphasis on managing classified information, which is more sensitive than OUO or FOUO.

In addition, while both DOE and DOD offer training on their OUO and FOUO policies, neither DOE nor DOD has an agencywide requirement that employees be trained before they designate documents as OUO or FOUO. Moreover, neither agency conducts oversight to assure that information is appropriately identified and marked as OUO or FOUO. DOE and DOD officials told us that limited resources, and in the case of DOE, the newness of the program, have contributed to the lack of training requirements and oversight. Nonetheless, the lack of training requirements and oversight of the OUO and FOUO programs leaves DOE and DOD officials unable to assure that OUO and FOUO documents are marked and handled in a manner consistent with agency policies and may result in inconsistencies and errors in the application of the programs.