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Sandia Proprietary Information (and Third Party Proprietary Information)

Rusty Elliott, Senior Legal Counsel
Chief Privacy Officer

July 2012



Sandia National Laboratories is a multi-program laboratory managed and operated by Sandia Corporation, a wholly owned subsidiary of Lockheed Martin Corporation, for the U.S. Department of Energy's National Nuclear Security Administration under contract DE-AC04-94AL85000.

Sandia Proprietary

- In this presentation:
- General description of Sandia Proprietary information
- Discussion of different types of Sandia Proprietary
- Further resources and contacts
- Details regarding Sandia Proprietary Information found in Corporate Procedure IM100.2.5
- Rules generally cover
 - Identification
 - Marking
 - Handling and Use

Sandia Proprietary

- Penalties for violation
 - Standard penalties for violating corporate procedures apply for non-compliance (same as for any other Corporate Process, Policy or Procedure):

“Granting or permitting exceptions or violations of policy, process, or procedure without authority, regardless of position or title, may be cause for disciplinary action up to and including termination of employment. Violating a policy, process, or procedure may be cause for disciplinary action up to and including termination of employment.”

Sandia Proprietary

- Records at Sandia are of two types: Government-owned and Sandia-owned (a.k.a. Sandia Proprietary)
 - Sandia Proprietary refers to records designated in M&O contract (Clause I-73) as owned by Sandia Corporation
 - Sandia Proprietary also refers to sensitive information contained in those Sandia-owned records
- Examples of why record ownership matters
 - FOIA applies only to government-owned records, not Sandia Proprietary records
 - OUO designation applies only to government owned records, not Sandia Proprietary records

Sandia Proprietary

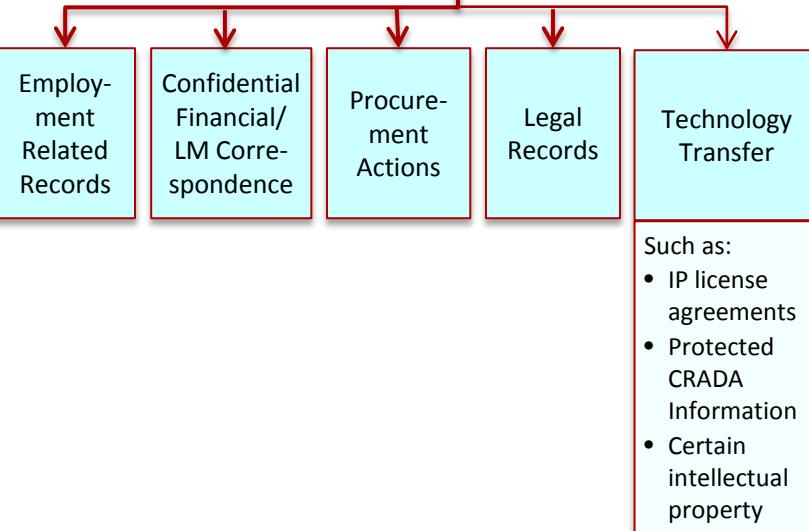
- 5 categories of Sandia Proprietary (Sandia-owned) records:
 - Employment related records
 - Confidential Sandia financial information, and correspondence involving Lockheed Martin
 - Records related to any Sandia procurement action
 - Legal records
 - Certain technology transfer related records (including documents related to license agreements, CRADA matters, and intellectual property such as patents and copyrights)

Unclassified Controlled Information (UCI)

First, determine if your information is:

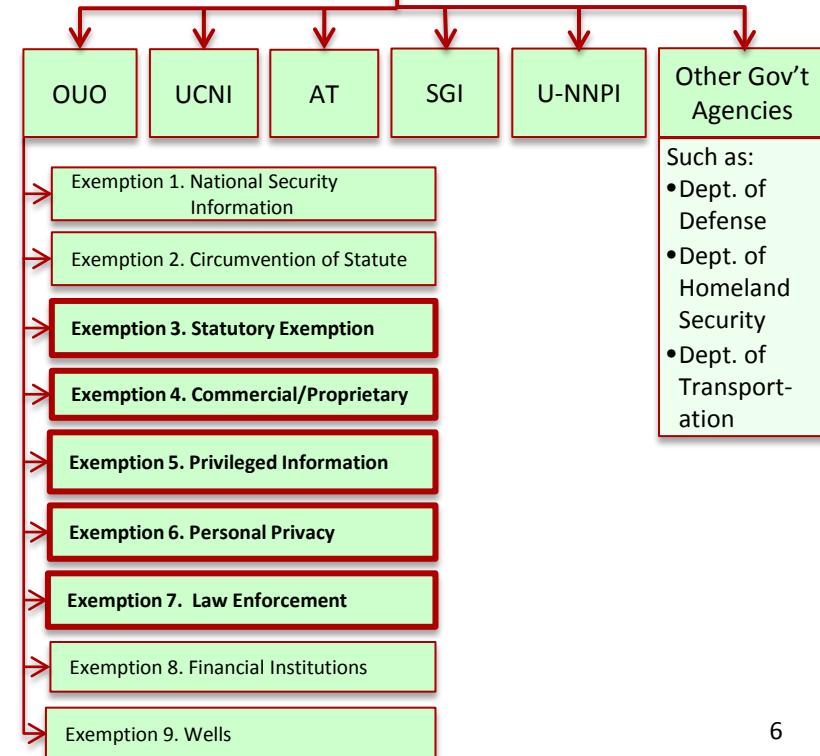
Sandia-owned = Sandia-Proprietary

Then, based on content, what type of proprietary information it is:



U.S. Government-owned

Then, based on content/sponsor, what type of information it is:



Personally Identifiable Information (PII) can apply to both U.S. government-owned and Sandia-owned information

Sandia Proprietary

- Marking
 - According to IM100.2.5, all records in this category should be marked Sandia Proprietary Information
 - A caption stating Sandia Proprietary Information in the document, top and bottom, is satisfactory
 - Certain additional requirements and markings could apply, as well - examples include:
 - Attorney client privileged/attorney work product (consult Legal Division)
 - Patent Caution information (consult Legal Division)
 - Protected CRADA Information (consult Legal Division or IP Management, Alliances and Licensing Organization)
 - PII – Covered in more detail separately in this group of presentations

Sandia Proprietary

- Marking (cont.)
 - Additional markings
 - To convey distribution limitations and any advice on handling or access (e.g. “Human Resource Use Only”)
 - Mark sensitive correspondence with other segments of Lockheed Martin as “Lockheed Martin Proprietary Information” or “LMPI” (details in IM100.2.5)
 - Multiple markings on documents
 - Okay, if applicable
 - e.g., Sandia Proprietary plus PII or OUO plus PII
 - But not okay, if incompatible
 - e.g. Sandia Proprietary plus OUO

Sandia Proprietary



- Protecting
 - Maintain appropriate need-to-know (NTK)
 - Maintain restrictions on access
 - Observe other protection requirements, if applicable (e.g. encrypting PII – more details provided in PII presentation)

Sandia Proprietary

- Special Considerations: Financial Information
 - The second M&O contract category or Sandia Proprietary includes the language, “confidential [Sandia] financial information”
 - This is specifically covered in Corporate Procedure FIN100.2.PLAN.8. Manage Financial Information
 - Level 1 Information – includes summary financial information, detailed cost information available from Sandia’s financial system, overhead recovery rates – can be released with Program/Project Manager’s approval
 - Level 2 Information – includes info relating to Sandia’s corporate accounting and financial system – requires approval by CFO (or Controller with delegation by CFO)
 - The details are important! For additional specific guidance, refer to FIN100.2.PLAN.8

Sandia Proprietary

- Special Considerations: Sandia Nondisclosure Agreements
 - There is also a different (*limited*) usage of the term “Sandia Proprietary” used at SNL.
 - Sandia’s Nondisclosure Agreement instructions permits designation information disclosed by Sandia under an NDA as “Sandia Proprietary” for certain technical information
 - In fact, Sandia **might not own** the data or record containing the data (it may be government-owned); “Patent Caution” might also apply
 - The label “Sandia Proprietary” is used because, under commercial custom and practice, information disclosed under an NDA is typically referred to as “proprietary.”
 - For additional specific guidance, refer to <http://info.sandia.gov/legal/intellectual/nondis.htm>

Third Party Proprietary

- Records that contain Third Party Proprietary information are similar to Sandia Proprietary records in that they are not government-owned (usually)
- Third Party Proprietary needs to be protected with at least the same level of care as Sandia Proprietary information
 - NTK, restrictions on access
 - In some instances, there might be additional requirements identified in a nondisclosure agreement (or NDA provisions in a related contract)
- Do not remove or alter markings indicating a third party proprietary interest – if present, investigate to identify pertinent requirements

Destruction of Records

- For all forms of sensitive unclassified information discussed in this presentation:
 - Follow applicable record retention procedures
 - Refer to Corporate Procedure IM100.2.2 Control of Records (which includes definition of “record”, retention schedules, and other useful records management information)
 - Sometimes there are local departmental protocols with regard to records management – they must be consistent, though, with corporate standards; consult your manager
 - When Sandia Proprietary documents are no longer needed, destroy by shredding or placing in a white destruction bag
 - For Third Party Proprietary, shredding or placing in white destruction bag may be appropriate, but check NDA/Contract for possible special requirements

Sandia Proprietary and Third Party Proprietary



- Resources
 - IM100.2.5 Identify and Protect Unclassified Information
 - Corporate Procedure FIN100.2.PLAN.8. Manage Financial Information
 - Nondisclosure Agreements -
<http://info.sandia.gov/legal/intellectual/nondis.htm>
- SMEs
 - Sandia Proprietary
 - Rusty Elliott, Senior Legal Counsel, 844-5626
 - Eric Thulin, IM&CS Policy Area Lead, 844-9374
 - Third Party Proprietary; Patent Caution
 - Kerry Kampschmidt, Chief Intellectual Property Counsel, 284-9280

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Personally Identifiable Information (PII)

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- In this presentation:
 - General description of Personally Identifiable information (PII)
 - Discussion of different aspects of PII identification, marking and protection
 - Further resources and contacts
- Details regarding Personally Identifiable Information found in Corporate Procedure IM100.2.6
- Rules generally cover
 - Identification
 - Marking
 - Handling and Use

- Penalties for violation
 - Standard penalties for violating corporate procedures apply for non-compliance (same as for any other Corporate Process, Policy or Procedure):

“Granting or permitting exceptions or violations of policy, process, or procedure without authority, regardless of position or title, may be cause for disciplinary action up to and including termination of employment. Violating a policy, process, or procedure may be cause for disciplinary action up to and including termination of employment.”

In addition, improper handling or loss of control of PII may need to be reported to NNSA or other government agencies, can cause harm to individuals, and may lead to fines, penalties and damage to Sandia's reputation

- Personally Identifiable Information can appear in either Government-owned or Sandia-owned records
- Marking and protection standards are the same, regardless of what type of record
- PII definition appears in corporate definitions, and is linked from IM100.2.6 Control Personally Identifiable Information (PII)
 - Members of the Workforce should have a **general familiarity** with what qualifies as PII at Sandia **and** should **be able to refer conveniently** to the actual definition (e.g., by marking the definition as a “favorite” in web browser)

■ Sandia PII definition

Any of the information listed below that can be used to distinguish or trace an individual's identity, is collected and maintained for the purpose of conducting official Sandia business, and is not solely comprised of information that is available to the general public:

- Social Security Number
- Driver's license number
- Passport number
- Other federal- or state-issued identification card number
- Bank account number (with or without routing number, access code, or Personal Identification Number [PIN])
- Financial or benefit account number in combination with any required code permitting access
- Background information or verification reports or credit report, including consumer reports
- Medical or health information, including biometric, biomonitoring, or genetic information
- Employment history, including ratings, salary, wage, deduction information, and disciplinary actions
- Security clearance history or related information
- Criminal history
- Date of birth or age
- Place of birth
- Mother's Maiden Name
- Race or ethnicity

Notes:

- One means of distinguishing or tracing an individual's identity is to include the first name or the first initial and last name of an individual in combination with any information listed above.
- PII does not include information that is on Sandia computing resources as a result of incidental personal use of computing and information resources or other assets.

- Three basic elements of the Sandia PII definition:
 - Sandia collected information as part of doing business
 - Item in question is on the list
 - Item in question is associated with a person (not anonymous)

PII

- **Marking –**
 - All documents (hardcopy or electronic) containing PII need to be marked
 - Place “Personally Identifiable Information” (or “PII” if space is limited) on the top of each page containing PII
 - For *existing* hard copies or document collections, a PII marking may be applied to the receptacle storing such information (i.e. don’t have to dig out all old copies of records and re-mark individually)
 - Include “PII” in subject line of emails or on fax cover sheets
 - Follow IM100.2.6 instructions for marking computer media
- Remember, PII can appear in almost any kind of document (*Combining PII markings with other markings is okay and should be done where applicable*)

- Protecting –
 - Limit collection and use of PII to the minimum necessary to conduct official Sandia business
 - Use/share PII only for reason that is compatible with original stated purpose for collecting the information
 - Maintain appropriate need-to-know (NTK)
 - Secure PII when not in use or under the control of authorized personnel
 - Store hardcopies and removable media in locked receptacles (even inside controlled access area)
 - Do not leave unattended on printer, copier or fax machine
 - Use yellow UCI envelopes; write or stamp “To Be Opened by Addressee Only” on the front of the envelope

PII

- Protecting (cont.) - Encryption
 - IM100.2.6 refers to “Encryption with Entrust or some other FIPS 140-2 compliant method (such as Office 2007 – see UCI information protection options for Office 2007).”
 - Store electronic documents containing PII in encrypted format
 - Transmit PII only with encryption (which means the person on the other end needs encryption, too)

*Automatic encryption of emails within sandia.gov domain
does not satisfy the IM100.2.6 encryption requirement*

PII

- Protecting (cont.)
 - Do not share PII with third parties outside of Sandia unless an agreement is in place specifying their responsibility to protect PII (consult Legal Division, if needed)
 - Do not create unnecessary or duplicate (e.g. “shadow”) files containing PII
 - Remote access to PII requires:
 - Computing equipment be approved for remote access to SRN
 - Portable media be encrypted (using Entrust or other FIPS 140-2 compliant method)
 - For handcarry of PII, maintain control of materials at all times; do not pack PII in luggage that will be checked
 - For external mail, follow instructions in IM100.2.6

PII – Privacy Act Information

- Rare, at Sandia
- Privacy Act information is material that Sandia manages specifically for the government under a delegation of authority
 - Currently, Sandia has only 4 Privacy Act Systems of Records (listed in the M&O Contract)
 - These are highly regulated records collections that only very few personnel use
 - If you use Privacy Act information (or if you think you do) consult your manager for specifics
 - SMEs (listed at end of this presentation) can help, too

*ALL PRIVACY ACT INFORMATION CONTAINS PII,
BUT NOT ALL PII IS PRIVACY ACT INFORMATION*

PII - Destruction of Records

- For all forms of sensitive unclassified information discussed in this presentation:
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 - Refer to Corporate Procedure IM100.2.2 Control of Records (which includes definition of “record”, retention schedules, and other useful records management information)
 - Sometimes there are local departmental protocols with regard to records management – they must be consistent, though, with corporate standards; consult your manager
 - When PII documents are no longer needed, destroy by shredding or placing in a white destruction bag

- Resources
 - IM100.2.6 Control Personally Identifiable Information
- SMEs
 - Rusty Elliott, Sandia Chief Privacy Officer (844-5626)
 - Eric Thulin, Policy SME, Office of the Chief Information Officer (844-9374)