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Date: Friday, August 12, 2022 at 11:02:59 AM UTC-4

Subject: Comment on Missing Content in NIST SP 800-717: Missing discussion of labeling electronic files with CUI

To: 800-171comments@list.nist.gov <800-171comments@list.nist.gov>

To Whom It May Concern:

Request Update to NIST SP 800-171: Add requirement for CUI information labeling in both physical and electronic formats, particularly when transmitting.

Discussion:

NIST SP 800-171, Rev 2, contains requirements to mark physical hardware (see requirement 3.8.4) but not to label internal/electronic data with CUI. The "media" reference by 3.8.4 is only hardware, not physical or electronic information. ISO/IEC 27001 A.8.2.2, traced to 3.8.4, discusses having procedures to label information but NIST SP 800-171 lacks this. NIST SP 800-53 distinguishes between marking hardware and labeling internal data structures (see AC-16), but NIST SP 800-171 lacks the labeling piece.

The National Archives and Records Administration (NARA) CUI Registry contains data labeling requirements, and is critical to proper CUI labeling. However, the only NIST SP 800-171 requirement that references this registry is 3.8.4 which focuses on marking hardware, not labeling data.

It can be logically inferred that data must have CUI labeling (as described in the NARA CUI Registry) to accomplish all of the other requirements in NIST SP 800-171; however, this is not explicit in the current SP 800-171 standard. Adding an explicit requirement for labeling CUI information in both physical and electronic formats clarifies this expectation in NIST SP 800-171, and meets intent of the standard.

An impact of this "omission" is muddled expectations in DoD contracts with mission partners. Right now, DoD has a contract clause, DFARS [252.204-7012](#), which requires the implementation of NIST SP 800-171 to safeguard CUI. However, with NIST SP 800-171

inferring, but not explicitly identifying, CUI labeling, this could be strictly interpreted that mission partners are not required to add CUI markings to electronic documents, including data deliveries. This approach would not meet intent of NIST SP 800-171, and potentially burdens the contract with additional CUI labeling requirements to clarify. To complete the expectation of safeguarding CUI, the simple fix is explicitly adding a requirement to apply CUI labeling to physical and electronic information formats, particularly when transmitting.

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