



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

11.3.12

AUGUST 11, 2023

## EFFECTIVE DATE

(08-11-2023)

## PURPOSE

- (1) This transmits revised IRM 11.3.12, Disclosure of Official Information, Designation of Documents.

## MATERIAL CHANGES

- (1) IRM 11.3.12.1(9) and (10) Updated Program Scope and Objectives, to align the Program and Policy owner sections to be in line with all other Disclosure IRMs.
- (2) IRM 11.3.12.1(11) Updated Program Scope and Objectives, to align with the Primary Stakeholders section to conform with the internal controls requirement.
- (3) IRM 11.3.12.1.1, Background, was added to conform with the internal controls requirement.
- (4) IRM 11.3.12.1.4, Program Controls, were added in order to incorporate relevant internal controls. These items identify information about the program and procedures covered within this section.
- (5) Reviewed and updated the IRM where necessary for the following types of editorial changes: legal citations, published forms and documents and web addresses.

## EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 11.3.12, dated September 28, 2018.

## AUDIENCE

All Operating Divisions and Functions.

## RELATED RESOURCES

- (1) The Disclosure and Privacy Knowledge Base can be found at: <https://portal.ds.irsnet.gov/sites/vl003/pages/default.aspx>

Michael Oser, Acting Director, Governmental Liaison,  
Disclosure and Safeguards (GLDS).



11.3.12

Designation of Documents

## Table of Contents

11.3.12.1 Program Scope and Objectives

11.3.12.1.1 Background

11.3.12.1.2 Authority

11.3.12.1.3 Responsibilities

11.3.12.1.4 Program Controls

11.3.12.1.5 Terms/Definitions/Acronyms

11.3.12.1.6 Related Resources

11.3.12.2 The Intent of Designation

11.3.12.2.1 Official Use Only

11.3.12.2.2 Official Use Only (OUO) Decision Tool

11.3.12.3 Guidelines for Administrative Controls

11.3.12.3.1 Published Materials

11.3.12.3.2 Procedural Guidance

11.3.12.3.3 Data Processing Manuals

11.3.12.3.4 Training Material

11.3.12.3.5 Special Adaptations

11.3.12.4 Guidelines for Removing Administrative Controls

11.3.12.5 Special Releases

11.3.12.5.1 Authority for Special Releases

11.3.12.5.2 Congressional Requests

11.3.12.5.3 Foreign Government Requests

11.3.12.5.4 Academic and Professional Organization Requests

11.3.12.5.5 Employee Organization Requests

11.3.12.5.6 Other Special Releases

11.3.12.6 Protection of Return Information

11.3.12.6.1 Avoidance and Mitigation

11.3.12.6.2 Selection or Construction of Names

11.3.12.6.3 Limiting Distribution

11.3.12.6.4 Designation and Labeling

11.3.12.6.5 Review and Authorization

11.3.12.7 Disclosure Requirements Under the Freedom of Information Act (FOIA)

11.3.12.7.1 Transparency of Instructions to Staff

11.3.12.7.2 Complying with FOIA Requirements for Instructions to Staff

11.3.12.7.3 E-FOIA Criteria for Instructions to Staff



11.3.12.1  
(09-28-2018)  
**Program Scope and Objectives**

- (1) **Purpose:** This section provides procedures for designating certain documents intended for internal use as Official Use Only (OUO) and guidance for determining their release. This section also contains instructions and restrictions on the use of personal identifiers in printed materials and the inclusion of return information in instructions.
- (2) The only designation available for labeling documents intended for internal IRS use is Official Use Only (OUO).
- (3) These instructions do not apply to documents classified for national security purposes under Executive Order 13526 and designated as “Top Secret”, “Secret”, or “Confidential”. For instructions relating to materials designated for national security or foreign policy purposes, see IRM 10.9.1, National Security Information.
- (4) These instructions also do not apply to documents with any label originating outside Internal Revenue Service (IRS).
- (5) This section also contains instructions and restrictions on the use of personal identifiers and return information in printed or published materials.
- (6) Instructions contained in IRM 11.3.7, Freedom of Information Act Reading Room Operations, and IRM 11.3.13, Freedom of Information Act are closely related to this section. A reading of those sections may be helpful in understanding and providing perspective for the instructions in this section.
- (7) See IRM 10.2, Physical Security Program, for instructions establishing the minimum standards required to administratively control, transmit, store, and ultimately destroy material determined to require administrative control (designation) following instructions contained in this section.
- (8) **Audience:** These instructions apply to IRS employees, including IRS Chief Counsel employees and contractors, working with non-national security official documents intended for internal use.
- (9) **Policy Owner:** The Director of Governmental Liaison, Disclosure and Safeguards (GLDS) is responsible for oversight of Disclosure policy.
- (10) **Program Owner:** The Disclosure office, under GLDS, is responsible for the Disclosure program and guidance. Each IRS organization is responsible for ensuring its employees are aware of and follow Servicewide Disclosure policy.
- (11) **Primary Stakeholders:** All Business units and functions working with non-national security official documents intended for internal use.

11.3.12.1.1  
(08-11-2023)  
**Background**

- (1) This IRM provides information for all IRS employees on designation of documents and guidance for determining their release. Employees should understand and apply these requirements in the performance of their duties.

11.3.12.1.2  
(09-28-2018)  
**Authority**

- (1) The Freedom of Information Act (FOIA), 5 USC 552, requires agencies to make available to the public information contained in agency records, except for matters identified as exempt from disclosure under provisions of the Act. Agencies make determinations about whether to release, or to exempt from release, under the FOIA solely on the basis of FOIA criteria and considerations. The fact that something is OUO, does not change the basis upon which agencies must make FOIA determinations. Agencies may determine that

certain documents are exempt from release under FOIA that also qualify and are marked as OUO, but the OUO status does not cause or influence that determination.

- (2) When designating OUO, offices should clear proposed designations of information being released to the public, through the Office of Disclosure to make a determination that a record or relevant portions of the record are exempt from the FOIA and would present a harm to IRS operations or to personal privacy interests at the time of designation. Authorized officials making a determination to designate a record, must maintain documentation which justifies how the FOIA demonstrable harm standard applies to the designated records.
- (3) The Privacy Act of 1974, 5 USC 552a(e)(10), requires agencies maintaining systems of records to:
  - “...establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.”
- (4) 44 USC 1902 requires that:
  - “Government publications, except those determined by their issuing components to be required for official use only or for strictly administration or operational purposes which have no public interest or educational value and publications classified for reasons of national security, shall be made available to depository libraries through the facilities of the Superintendent of Documents for public information.”
- (5) TD P 15-71, “Treasury Security Manual” provides the authority to designate information not entitled to protection in the interest of national security under appropriate Executive Order, but which requires protection.
- (6) The officials authorized to administratively control and designate IRS records as “Official Use Only” are found in *Delegation Order 11-1*, as published in IRM 1.2.2.12.1.

#### 11.3.12.1.3 (09-28-2018) Responsibilities

- (1) The Director, Governmental Liaison, Disclosure and Safeguards (GLDS) is the executive responsible for the Disclosure program.
- (2) The Associate Director, Disclosure is the program manager for Disclosure.
- (3) Disclosure Office managers and management officials are responsible for assessing, applying, implementing and communicating aspects of the administrative control of records that fall under the purview of the Freedom of Information Act, the Privacy Act and other disclosure laws.
- (4) IRS and Disclosure Office employees with responsibilities to create or maintain records are responsible to protect and control access to and dissemination of those records, as appropriate.
- (5) *Delegation Order 11-1*, found in IRM 1.2.2.12.1, names the officials authorized to approve “Official Use Only” designations.

- (6) All employees and contractors have responsibility for ensuring IRS records (hard copy and electronic) are appropriately managed, retained, and archived in accordance with IRM 1.15, Records and Information Management, series for records retention and disposition requirements before documents can be destroyed. Refer to Document 12990, IRS Records Control Schedules (RCS), for the National Archives and Records Administration (NARA)-approved IRS records disposition to prevent unauthorized/unlawful destruction of records. Refer to Document 12829, General Records Schedules (GRS), for the NARA-issued disposal authorizations for temporary administrative records common to all Federal agencies.

11.3.12.1.4  
(08-11-2023)  
**Program Controls**

- (1) Business Units are responsible for establishing and documenting the program controls developed to oversee their program as well as ensuring employee compliance with all applicable elements of this IRM.

11.3.12.1.5  
(09-28-2018)  
**Terms/Definitions/  
Acronyms**

- (1) The tables below list commonly used terms, definitions and acronyms used throughout this IRM section.

Term	Definition
Designation	The act or process by which information is determined to fall under administrative controls requiring restriction of the information, except for official purposes.
Disclosure	The making known to any person in any manner whatever a return or return information. See IRC 6103(b)(2) for the statutory definition of disclosure.
Official Use Only	Sensitive information made available to the public that meets a Freedom of Information Act exemption <b>and</b> where there is a reasonable expectation that disclosure would harm tax administration or IRS operations or that disclosure is specifically prohibited by law
Record	Includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them. See IRM 1.15.2.2.

Acronym	Definition
CFR	Code of Federal Regulations

Acronym	Definition
CROPP	Core Repository of Published Products
FOIA	Freedom of Information Act
GLDS	Governmental Liaison, Disclosure and Safeguards
GRS	General Records Schedules
IMD	Internal Management Document
IRC	Internal Revenue Code
IT	Information Technology
LB&I	Large Business and International
NARA	National Archives and Records Administration
NIST	National Institute of Standards and Technology
OUO	Official Use Only
PGLD	Privacy, Governmental Liaison and Disclosure
RCS	Records Control Schedules
SERP IPU	Servicewide Electronic Research Program IRM Procedural Updates
SPDER	Servicewide Policy, Directives and Electronic Research
USC	United States Code

11.3.12.1.6  
(09-28-2018)

- (1) The following table lists other sources of guidance on designation and administration of agency records:

#### Related Resources

Resource	Title	Guidance
Document 12829	General Records Schedules (GRS)	National Archives and Records Administration (NARA)-issued disposal authorizations for temporary administrative records common to all federal agencies.
Document 12990	IRS Records Control Schedules (RCS)	National Archives and Records Administration (NARA)-approved IRS records retention and disposition guidelines to prevent unauthorized/unlawful destruction of records.



Resource	Title	Guidance
IRM 1.15	Records and Information Management	Provides instructions for the proper handling of information (hard copy and electronic) in the creation, maintenance, retrieval, preservation, and disposition of all records.
IRM 10.2	Physical Security Program	Establishes standards for administrative control, transmission, storage, and destruction of material requiring designation.
IRM 10.5.1	Privacy Policy	Establishes the framework for IRS privacy policy, assigning responsibilities and laying the foundation necessary to measure privacy compliance.
IRM 10.8.1	Policy and Guidance	Lays the foundation to implement and manage security for information systems security within the IRS and provides guidance on all aspects of security for the protection of Information Technology (IT) resources.
IRM 11.3.7	Freedom of Information Act Reading Room Operations	Establishes the framework for the Freedom of Information Act requirement to disclose certain records proactively.
IRM 11.3.13	Freedom of Information Act	Describes the Freedom of Information Act and its exemptions allowing IRS to withhold records from public release.

11.3.12.2  
(09-28-2018)  
**The Intent of  
Designation**

- (1) A major intention for designating a record “Official Use Only” is to prevent automatic distribution to the public of materials otherwise exempt from the FOIA where disclosure carries a reasonable expectation of harm to a government interest or to a personal privacy interest.
- (2) The designation system promotes uniformity by reducing the likelihood of withholding a record in one office while releasing it in another.
- (3) Identifying a small portion of IRS printed materials as “Official Use Only” facilitates the ready release to the public of printed materials that are not designated as “Official Use Only”.
- (4) The legends “Limited Official Use” and “Official Use Only” should act to alert employees that the release of a record is prohibited, except by an authorized official acting in accordance with the provisions of this section or other authorization.

**Note:** The legend of “Limited Official Use” is historical and should no longer be used to designate a record. See IRM 11.3.12.2.1(2)c) for additional information.

- (5) The legends “Limited Official Use” and “Official Use Only” are internal instructions that have no effect with regard to any member of the public who may have received such records.

**Note:** The legend of “Limited Official Use” is historical and should no longer be used to designate a record. See IRM 11.3.12.2.1(2)c) for additional information.

- (6) This section also includes restrictions to prevent the abuse of over designation and provisions for removing the designations of records containing information that no longer requires protection.

11.3.12.2.1  
(09-28-2018)  
**Official Use Only**

- (1) The limited distribution of some IRS documents, and the normal safeguarding of IRS files as required by law to prevent unauthorized disclosures, may make administrative “Official Use Only” designation unnecessary.
- (2) Use the designation “Official Use Only” on the following types of records.
- a. Published materials intended for internal use. See IRM 11.3.12.3.1, Published Materials.
  - b. Guidance from Headquarters officials to field officials containing instructions that would be subject to a FOIA exemption and where disclosure carries a reasonable expectation of harm to a protected interest.
  - c. Documents formerly designated “Limited Official Use” that continue to be subject to a FOIA exemption and where disclosure carries a reasonable expectation of harm to a protected interest.
  - d. Tolerance and criteria portions of implementing agreements, Memorandums of Understanding, or their equivalent for exchange of tax returns and return information with state or federal agencies.
- (3) The absence of an “Official Use Only” designation from any record not described above does not indicate that the record may be automatically released to the public but merely means that its releasability depends upon other factors.
- (4) The “Official Use Only” designation shall be effective only when applied in accordance with this section, by officials authorized by Delegation Order 11-1, found in IRM 1.2.2.12.1, and with the concurrence of the Office of Disclosure when such concurrence is required. Authorized officials making a determination to designate a record, must maintain documentation which justifies how the demonstrable harm standard applies to the designated records.
- (5) IRS no longer uses former designations such as “For Official IRS Use Only”, “For Official Use Only”, or “Limited Official Use”. Consider any record retaining these designations or anything other than “Official Use Only” to be “Official Use Only.”
- (6) The use of pseudo-designations such as “internal use only” or “eyes only” has no official standing. Treat records marked with pseudo-designations as if they were not designated.
- (7) Do not mark records “Official Use Only”, without the approval of an official authorized under Delegation Order 11-1, found in IRM 1.2.2.12.1. Authorized officials making a determination to designate a record, must maintain documentation which justifies how the demonstrable harm standard applies to the designated records.

11.3.12.2.2  
(09-28-2018)

**Official Use Only (OUO)  
Decision Tool**

(1) **OUO Definition:** "Official Use Only" information is sensitive information, made available to the public, that meets a Freedom of Information Act exemption **and** where there is a reasonable expectation that disclosure would harm tax administration or IRS operations or that disclosure is prohibited by law.

(2) **OUO Examples:**

Record is OUO	Record is not OUO
<p>Tolerance amounts or criteria where disclosure presents a demonstrable harm to tax administration or to IRS operations. For example:</p> <ul style="list-style-type: none"> <li>• A threshold refund amount above which return is flagged for additional scrutiny.</li> <li>• A tolerance amount for exam referral of returns with tax decreases resulting from casualty claims.</li> </ul>	<p>A Mail Stop number.</p> <p>Security procedures that are widely publicized as National Institute of Standards and Technology (NIST) general requirements</p>
<p>Law enforcement techniques or procedures where disclosure carries a reasonable expectation of harm to tax administration or to IRS operations. For example:</p> <ul style="list-style-type: none"> <li>• Disclosure of records regarding techniques and procedures used in undercover operations where disclosure could allow criminals to circumvent the efforts or would diminish the effectiveness of the operations, and where such techniques are unknown to public.</li> <li>• Instances where disclosure of the use of security devices and details of their methods of operation could lessen their effectiveness.</li> </ul>	<p>When the use of a law enforcement technique or procedure is generally known or a reasonable assumption could be made regarding its likely use. The key to the harm determination is, "will disclosure release information that someone could use to circumvent a legal requirement?"</p>

Record is OUO	Record is not OUO
Data processing codes or criteria where disclosure carries a reasonable expectation of harm to tax administration or to IRS operations. For example: <ul style="list-style-type: none"> <li>• Disclosing the identity of software used to monitor and protect specific critical IRS systems.</li> <li>• Disclosing specific protocols for incident responses to malware or ransomware intrusions.</li> </ul>	Computer Transaction codes where disclosure carries no reasonable expectation of harm to tax administration or to IRS operations.
Any information where disclosure is prohibited by law, such as under IRC 6103.	Threshold amounts that are not processing tolerances. Ex.: income levels determining tax filing requirements or eligibility for tax credits.
	Any information where disclosure does not carry a reasonable expectation of harm to tax administration or to IRS operations.

### 11.3.12.3 (09-28-2018)

#### Guidelines for Administrative Controls

- (1) These guidelines are intended to assist officials making recommendations for the administrative control of records covered by this section.
- (2) Aside from the obvious requirement that all actions must be strictly in accordance with all applicable provisions of law, these are guidelines and not rules that must be followed in every instance. Apply them in light of the specific circumstances involved in any situation.
- (3) The overall objective is to make available to the public the greatest amount of information whenever possible. Do not apply these guidelines in a manner that would produce a result contrary to this objective.
- (4) The Freedom of Information Act requires the federal government to make its records available to the public unless the records are subject to one of the exemptions provided by the Act and the agency is able to articulate a reasonable expectation of harm to a protectable interest.
- (5) The FOIA Improvement Act of 2016 revised the FOIA to limit withholding under the FOIA to situations where agencies reasonably foresee disclosure would harm an interest protected by an exemption in the statute or where the disclosure is prohibited by law. Officials evaluating material for designation or for removal of previous designations should be alert to opportunities to disclose in circumstances where the disclosure is not prohibited by law and there is no reasonable expectation of harm even though a FOIA exemption may apply. Doing so will permit IRS to operate as transparently as possible without harming any valid interest.

- (6) Do not designate materials simply because they may be subject to misinterpretation, because there is no apparent public benefit to their release, to avoid embarrassment, or to hide instances of errors or wrong-doing by IRS officials or employees.
- (7) If information is generally known, although not published, that does not necessarily mean public release of the information would not interfere with IRS operations or activities. A limited disclosure previously made by IRS will not cause the IRS to forego the defense of such materials, but a substantial distribution may no longer have its protection defended.

11.3.12.3.1  
(09-28-2018)  
**Published Materials**

- (1) The designation of published documents is part of the preparation process. Include the “Official Use Only” designation during the publication process rather than applying it subsequently. Omission of the “Official Use Only” designation may result in erroneous public distribution of records, as some may incorrectly presume that the absence of a designation means the record is intended for public release.
- (2) The originating office is responsible for designating material submitted for publication.
- (3) Request designation for published materials other than Internal Management Documents (IMD) on Form 1767, Publication Services Requisition.
- (4) For Internal Management Documents, the originator will complete Form 2061, Document Clearance Record.
- (5) The document being issued, Form 1767, or Form 2061, or a statement in lieu of one of the foregoing must be signed by an official authorized by Delegation Order 11-1.
- (6) All designated materials must be reviewed by the Office of Disclosure under Privacy, Governmental Liaison and Disclosure. Such materials should be clearly noted using Form 13709, Privacy, Governmental Liaison and, Disclosure (PGLD) Checklist for Internal Management Documents and Training Materials, as to whether the PGLD review is for designation only or whether review is also for “disclosure issues.”
- (7) Data Processing materials and Training materials are subject to special consideration.

**Note:** See IRM subsections IRM 11.3.12.3.3, Data Processing Manuals and IRM 11.3.12.3.4, Training Materials.

- (8) Originators of materials being produced outside of Headquarters are responsible for ascertaining the adequacy of local procedures to accomplish results similar to the above.

11.3.12.3.2  
(09-28-2018)  
**Procedural Guidance**

- (1) The Freedom of Information Act provides that “administrative staff manuals and instructions to staff” be available for public inspection. See 5 USC 552(a)(2). This requirement, which is the basis for making the IRM available to the public, also extends to instructions to staff when issued on an emergency basis as memoranda or faxes prior to inclusion in the IRM. See IRM 1.11.1, Internal Management Documents, for information on posting interim guidance to the

FOIA Library at [www.irs.gov](http://www.irs.gov). This section applies also to other IMD that could be subject to public release through the FOIA Library.

(2) In order to be subject to this section, a document must:

- Be originated by a Headquarters official or be appropriately approved for use as local or provisional guidance
- Be addressed to a group of field officials or Headquarters officials
- Contain instructions of a general or continuing nature that employees must follow

**Note:** Documents that relate to the handling of specific cases or instances and that serve no continuing instructional purpose are not subject to this section.

- (3) Officials authorized under Delegation Order 11-1 to control “Official Use Only” materials that meet the requirements of (2) above may do so by signing the Form 2061 or other clearance document.
- (4) Authors must generally obtain a specialized review from the Disclosure Office for any “Official Use Only” controls.
- (5) If all of the material in a procedural guidance document merits protection, the control label “Official Use Only” must be shown on each page of the document. The document may have attachments that are designated, partially designated, or not designated on their own merits.
- (6) An undesignated document may have attachments that are designated or partially designated. Mark each page of such documents “Note: all or some of the attachments are designated Official Use Only.”
- (7) If a procedural guidance or training document includes both protected information and meaningful information that is not appropriate for protection, the content must be evaluated on a content basis. Any protected content will show a # sign before and after the content designated. All pages must carry the designation “Any text marked with a # is Official Use Only.”

**Note:** This designation will be shown on each page, even though the specific page may not contain any protected material.

- (8) If some pages in a memorandum are partially designated using the symbol # and other pages require protection for their complete content, the latter pages should carry the designation “any text marked with a # is Official Use Only” and the symbol # should mark the beginning and ending of content on those pages.
- (9) Disclosure staff processing FOIA requests for procedural documents that are subject to this section must consider the appropriate FOIA exemptions in making a release determination. See IRM 11.3.13, Freedom of Information Act.
- (10) Disclosure Managers should not deny FOIA requests for materials subject to this section solely based on their designation as “Official Use Only,” but must apply any appropriate FOIA exemptions where release of the materials carries a reasonable expectation of harm. If the records no longer meet the exemption standards under the FOIA, managers may work with the owner of the records to remove any OOU designation.

11.3.12.3.3  
(09-28-2018)  
**Data Processing  
Manuals**

- (1) Prepare data processing instructions that contain OUO as follows:
  - a. Mark each page with the designation “Any text marked with a # is Official Use Only,” regardless of whether the particular page contains any protected material or not.
  - b. Identify protected material with the symbol # placed before and after the text.
  - c. For public use, the issuance may be posted to [www.irs.gov](http://www.irs.gov) in redacted form.

**Note:** The originator must inform Media and Publications on Form 1767 to prepare a redacted electronic version for [www.irs.gov](http://www.irs.gov) or use an equivalent process to redact OUO content. The public version will have all text marked with the # sign removed and replaced with some clear marking or symbol that shows the extent of the redactions.

- (2) The designation of data processing materials as “Official Use Only” generally requires review through the Office of Disclosure.

**Note:** Due to the highly technical nature of their content, some data processing materials, such as Computer Program Books and Systems Acceptability Testing drafts may be designated by officials authorized by Delegation Order 11-1 without the Privacy, Governmental Liaison and Disclosure review. Authorized officials making a determination to designate a record, must maintain documentation which justifies how the demonstrable harm standard applies to the designated records.

- (3) The designation of data processing materials serves three objectives.
  - a. To protect information in data processing instructions designated OUO by other offices.
  - b. To protect information that could be used to alter filing practices or avoid the payment of taxes by protecting tolerances, criteria, details of computer analysis, and the specific identities of items that may or may not be transcribed.
  - c. To prevent interference in computer processes for purposes of fraud or disruption by protecting data processing codes, routines, and safety and security provisions.
- (4) When proposing OUO designations, the intent should be to deny public access to materials and listings of data processing codes or system security procedures where IRS is able to articulate a reasonable expectation of harm to IRS operations resulting from disclosure. Designation should not be given to information that does not clearly undermine the integrity of the computer system itself (e.g., most of Document 6209, IRS Processing Codes and Information is available at [www.irs.gov](http://www.irs.gov)).
- (5) Do not remove every mention of an otherwise innocuous code from every public document in which it might appear, since occasional disclosures of limited information would not likely permit a reconstruction of the extensive nature necessary to threaten computer processes. Moreover, individual requesters are generally entitled to receive records that pertain to them and to receive an adequate explanation of their content. It is current Service policy to provide the public instructions for reading transcripts when such transcripts are not self-evident.



11.3.12.3.4  
(09-28-2018)  
**Training Material**

- (1) Training materials may require administrative control for three reasons.
  - a. They repeat controlled procedural guidance or data processing information and thus require administrative control to protect those materials.
  - b. They may include original information not appearing elsewhere, that requires administrative control because a FOIA exemption applies and there is a reasonable expectation of harm to an IRS or to a personal privacy interest if the information were disclosed.
  - c. They require administrative control to protect the integrity of the training process.

**Note:** Instructor Guides and related materials may be administratively controlled to prevent students from obtaining advance knowledge of test questions and answers, discussion problems, and other training techniques whose effectiveness would be diminished if known.

- (2) Training materials proposed for administrative control normally require the concurrence of Privacy, Governmental Liaison and Disclosure.
- (3) The following types of administrative control may be used with training materials:
  - a. If all or most of the material is administratively controlled, the entire training publication will be designated "Official Use Only." This designation will be shown on the cover of the document and printed at the bottom of each page. Also, place the symbol # at the beginning and end of the text on each page.
  - b. If protecting only certain chapters or units, apply the control label "Official Use Only," to all pages in those chapters or units. The cover of the document should contain a statement to the effect that "Note: Chapter(s) --- are designated "Official Use Only"". Also, place the symbol # at the beginning and end of the text on each page administratively controlled.
  - c. If protecting certain pages within a chapter, apply the control label "Official Use Only" to only those pages. The cover of the document should contain a statement to the effect that "Page(s) --- are designated "Official Use Only"". Also, place the symbol # at the beginning and end of the text on each page administratively controlled.
  - d. If protecting certain text within a page, place the symbol # before and after the text. Indicate in the page footer, "Any text marked with a # is "Official Use Only."" The cover of the document should contain a statement to the effect, "Text marked with # --- is "Official Use Only.""

11.3.12.3.5  
(09-28-2018)  
**Special Adaptations**

- (1) Special circumstances may require adaptations to "Official Use Only" designations, such as those indicated for training materials in IRM 11.3.12.3.4(3), Training Materials.
- (2) Adaptations could include practices such as having all "Official Use Only" material separated below a line, printed in a different color or different style type, or printed in a shaded area.
- (3) Documents using adaptations require designation as "Official Use Only" on their cover page and a clear explanation on each page to differentiate between the protected and public portions of the text.



11.3.12.4  
(09-28-2018)

**Guidelines for Removing  
Administrative Controls**

- (4) Adaptations of the “Official Use Only” designation require review through the Office of Disclosure.
- (1) When reviewing a controlled document that has not been released to the public, consider whether the original control was proper. The material may have been controlled in error and the administrative control may now be removed.
  - (2) Even a document correctly controlled at the outset may warrant a removal of the control because of changing Freedom of Information Act standards. Over time FOIA standards have trended towards a greater presumption of openness and materials that may have met the standards for protection formerly may no longer.
  - (3) Also, the age of a record may affect its sensitivity and lessen the potential for harm resulting from disclosure. The need to protect it may no longer exist.
    - a. Completed actions are less likely to require protection than proposed actions; generally, the older an issuance is and the less it relates to current operations, the less likely it is to require protection.
    - b. An issuance that has long been out of date may nevertheless continue to contain information that relates to current operations and continues to warrant protection.
  - (4) Authority to remove the control from an “Official Use Only” record is specified in Delegation Order 11-1, found in IRM 1.2.2.12.1.
  - (5) A Freedom of Information Act (FOIA) request for a document is equivalent to a request to remove a record’s administrative control.
  - (6) The release of a document to a member of the public will generally constitute the removal of that record’s administrative control.
  - (7) IRS employees may rely upon a formal release to the public of a controlled record under the FOIA as authority for any subsequent releases of the identical document.
  - (8) The removal of a record’s administrative control does not require republication solely to produce a version free of the “Official Use Only” designation if normal IRS needs do not otherwise require re-issuance of the document. However, any future editions of the record that may be produced should no longer carry the “Official Use Only” designation.
  - (9) Generally, do not issue instructions to recipients of controlled records to delete the “Official Use Only” designation when it is no longer applicable because such documents may be widely distributed through IRS, rendering compliance impractical.
  - (10) Many materials designated “Official Use Only” are subjected to a continuous review process to ensure they are current, and are periodically updated and republished.
    - a. Any review updating and reissuing a OUO record should consider the continuing need for administrative control.
    - b. Do not designate records “Official Use Only” merely because a prior edition was designated. Evaluate each record on its own merits in accordance with current standards.

11.3.12.5  
(09-28-2018)  
**Special Releases**

- (1) Efficient transaction of official Government business may require IRS to release administratively controlled records outside the Department of the Treasury under circumstances that would not constitute a general release to members of the public.
- (2) This section differentiates between special releases and general releases to members of the public that would constitute a removal of a record's administrative control.
- (3) Controlled records may be released pursuant to this section only to the extent that such records do not include information whose disclosure is prohibited by statute, including IRC 6103 and 5 USC 552a, among others.
- (4) "Official Use Only" information may be released to IRS contractors but their contracts must conform to the requirements of IRM 11.3.24.5.5, Contracts Involving Disclosure of Sensitive but Unclassified Information (SBU) or formerly Official Use Only Documents. To the extent that Privacy Act (5 USC 552a) or IRC 6103 protected information is involved, see IRM 11.3.24.4, Contract Compliance Reviews.
- (5) Release of "Official Use Only" information to the Government Accountability Office is covered in IRM 11.3.23, Disclosure to the Government Accountability Office (GAO).

11.3.12.5.1  
(09-28-2018)  
**Authority for Special Releases**

- (1) Records designated "Official Use Only" may be furnished or their contents disclosed to persons outside the Department of the Treasury (e.g., to Federal agencies as part of IRS' FedFed activity and to state agencies as part of tax administration partnering) only with the permission of officials authorized to administratively control or remove controls from such documents by Delegation Order 11-1 or an appropriate functional official (could be part of a Memorandum of Understanding or other such cooperative agreement covering agency partnering efforts).
- (2) When sent outside IRS, OUO information documents shall include a statement alerting the recipient in a transmittal letter or directly on the document containing OUO information. For example: "This document belongs to the Internal Revenue Service. It may not be released without the express permission of (cite the creating office). Refer requests and inquiries for the document to: (insert name and address of the originating office and contact number(s) for that office)".
- (3) A designated document may not be released outside the Treasury Department, such as to the Department of Justice or to U.S. Attorneys, in connection with a tax case or similar circumstances without the knowledge and concurrence of the official(s) of the function that created the document. Subsequently, a government attorney may release, as appropriate, such "Official Use Only" information in discovery or litigation.

**Note:** Chief Counsel Attorneys should secure the concurrence of the official(s) of the function that created the "Official Use Only" document before releasing.

- (4) Any special release under this subsection must be conditioned on the recipient's agreement and ability to use, disseminate (usually will only be to agency employees with a need to know for official duties), and protect the designated information in accordance with IRS requirements.

11.3.12.5.2  
(09-28-2018)

**Congressional Requests**

- (1) Requests from Representatives and Senators or members of their staffs acting in their own capacity will be processed in a manner consistent with the provisions of the Freedom of Information Act and will be given every consideration that would be appropriate to any member of the public.
- (2) Requests that are made on behalf of committees and subcommittees of the Congress for an official purpose are made pursuant to the oversight and investigatory powers of the Congress.
  - a. Controlled documents may be made available to committees or subcommittees pursuant to such requests.
  - b. The recipients should be advised of the restricted availability of controlled documents in order to preclude any inadvertent release such as might result from inclusion in a public report. Follow the procedures in IRM 11.3.12.5.1(3), Authority for Special Releases, to advise recipients of the limitations on redisclosure.
- (3) In order to avoid imposing unnecessary administrative burdens on a congressional committee and to avoid the embarrassment of requesting protection for out-of-date materials, consider the need for continued designation of "Official Use Only" records requested by such committees.

11.3.12.5.3  
(09-28-2018)

**Foreign Government Requests**

- (1) Large Business and International (LB&I) is the main point of contact and coordination for requests from representatives of foreign governments for IRS records and publications.
- (2) These instructions do not apply to returns and return information, disclosure of which is also under the authority of LB&I as competent authority and is discussed in IRM 11.3.25, Disclosure to Foreign Countries Pursuant to Tax Treaties.
- (3) IRS employees performing training or briefings or guiding visitations for foreign officials may (with the prior concurrence of LB&I) make available controlled documents as necessary to accomplish the purposes of such sessions, providing such documents remain on IRS premises or within IRS control and are not copied or removed.
- (4) Releases of designated documents to foreign governments, other than permitted by (2) above, require authorization from LB&I and must, in addition, have the concurrence of Privacy, Governmental Liaison and Disclosure.
- (5) LB&I personnel should carefully evaluate requests from foreign governments. Any releases of information should be consistent with the provisions and intent of any tax treaty with the requesting government.
- (6) Inasmuch as controlled documents are not available to members of the public, any proposed release of such documents would provide to a foreign government information that IRS withholds from U.S. citizens. Any such proposal requires careful consideration to ensure the result is clearly warranted and defensible.

11.3.12.5.4  
(09-28-2018)  
**Academic and  
Professional  
Organization Requests**

- (1) IRS seeks to cooperate with responsible representatives of universities, bar associations, accountants' institutes, and similar organizations devoted to the knowledge of and the improvement of tax administration.
  - a. However, such organizations do not have any legal status that would permit a greater access to IRS documents than would be granted to any member of the public acting independently.
  - b. Consequently, the release of controlled documents to academic and professional organizations would constitute removing the control for those documents, except as provided in (2) or (3) below.
- (2) The IRS may engage the services of specialists as consultants for tax administration purposes.
  - a. Such persons may have access to designated materials to the extent necessary for their duties.
  - b. However, they do not have a right to retain such documents or use them for other than IRS purposes.

**Note:** See IRM 11.3.24, Disclosures to Contractors.

- (3) The IRS may contract with academic and professional organizations to perform studies or provide other services for tax administration purposes.
- (4) Such contracted persons may have access to controlled documents for the contracted service, provided the contract or a supplementary agreement specifies that the contractor does not have a right to retain such documents or use them for other than IRS purposes, and the IRS retains exclusive rights to any materials that reflect or are produced from the designated documents.

**Note:** See IRM 11.3.24, Disclosures to Contractors.

11.3.12.5.5  
(09-28-2018)  
**Employee Organization  
Requests**

- (1) Designated documents may be released to employees pursuing personnel matters, their representatives, and employee organizations to the extent provided for by existing agreements or authorizations and in the interests of the IRS without constituting a general release to the public.
- (2) Such releases should call the attention of the recipient to the limited purposes of the release and request that the recipient observe the restricted availability of the document.

11.3.12.5.6  
(09-28-2018)  
**Other Special Releases**

- (1) Officials encountering circumstances that might warrant a special release of controlled documents other than the foregoing should request assistance and advice from the Office of Disclosure.

11.3.12.6  
(09-28-2018)  
**Protection of Return  
Information**

- (1) Return information protected by IRC 6103, which may or may not include the identity of taxpayers, may have to appear in published form under some circumstances, such as to fulfill training needs, coordinate enforcement programs, or notify employees of legal, technical or procedural positions. Similarly, the identity of other persons, such as IRS employees and personal information concerning them, protected by 5 USC 552 and/or USC 552a, may occasionally have to appear in published form. Such occasions should be rare and must be supported by compelling need.

**Note:** See IRM 11.3.22, Disclosure to Federal Officers and Employees for Tax Administration Purposes, for a discussion of the use of IRC 6103 protected information in published materials.

- (2) Published materials including such identities and information must be designated “Official Use Only.”
- (3) The principle of limiting the distribution of such identities and information to employees who have a “need to know” should discourage their inclusion in published materials that by their nature are expected to have wide distribution.
- (4) When the inclusion of such identities and information is unavoidable, consider controlling the distribution of such materials to avoid possession by employees who have no “need to know.”
- (5) Prior to the issuance of these instructions, it was difficult to identify instances where controlled material contained statutorily protected return information. Therefore recipients were not always aware of the level of protection these materials required.
- (6) Accordingly, these instructions provide the following guidelines:
  - Avoid including return information in published materials
  - Designate any materials that include such information for distribution only within Treasury
  - Limit their distribution within Treasury to employees with an official “need to know” basis and
  - Specifically label such information whenever it occurs in published matter
- (7) The following are examples of names that may appear in printed materials in some other context and are not subject to protection:
  - Manufacturers of equipment used by IRS
  - Issuers of money orders
  - Names of return preparer firms requiring special processing
  - Names of firms that serve notices of levies or other legal documents on behalf of the IRS

11.3.12.6.1  
(09-28-2018)  
**Avoidance and  
Mitigation**

- (1) The appearance of identities and return information in published materials should be avoided. If it is impossible or highly problematic to avoid the use of such information, the distribution of such materials must be controlled within Treasury and an attempt should be made to mitigate the problem by limiting the amount of information included.
- (2) Whenever possible, the use of actual return information should be avoided by creating fictional examples of similar situations that contain neither the identity of the taxpayer nor any information that could be considered attributable to a particular taxpayer. Such examples would not require any OOU designation. Acceptable fictional entity data is published by the Learning and Education function. See IRM 6.410.1, Learning and Education - Learning and Education Policy.
- (3) If fictional examples are not appropriate, consider using composite examples in which components are drawn from ten or more cases (in a national or state

level example), rendering the result as statistical data precluding the identification of any taxpayer. Such examples would not require any designation.

- (4) The Research, Applied Analytics and Statistics (RAAS) function can provide guidance in formulating such statistical compilations.
- (5) In the absence of any other alternative, actual case data may be used provided the materials are distributed only to those having a need to know, and should be designated as OOU.
  - a. The information provided should be the minimum necessary for the purpose used.
  - b. The identity and any potentially identifying characteristics should be omitted if possible.

**Note:** It is important to realize that minimizing the information presented and omitting identifying factors does not remove the statutory protection of return information. Such information must be designated OOU.

- (6) In choosing actual cases for presentation, select the best example for the intended purpose while avoiding information pertaining to persons of notoriety or prominence. Exercise restraint to avoid including anecdotal material that does not contribute to the effectiveness of the example.
- (7) See IRM 11.3.22, Disclosure to Federal Officers and Employees for Tax Administration Purposes, for a complete discussion regarding use of tax data in printed materials and training.

11.3.12.6.2  
(09-28-2018)

#### **Selection or Construction of Names**

- (1) IRS published materials such as manual instructions and training guides, whether administratively controlled or not, sometimes require the use of fictional names and addresses in illustrations or hypothetical discussions. Select or construct names and addresses in a manner to avoid embarrassment to IRS or harm or offense to individuals, businesses or communities.

**Note:** See IRM 1.11.2, Internal Revenue Manual (IRM) Process, IRM 6.410.1, Learning and Education - Learning and Education Policy, and IRM 10.5.1, Privacy Policy, for reference and for definition of PII.

- (2) Names and addresses that may not be used include:
  - a. Any name or address that may easily be mistaken for or associated with a real person or place.
  - b. Any name or address that may be associated with any prominent person, living or dead, from the political, scientific, entertainment, sports, or other fields.
  - c. Any name or address that may have an ethnic or racial identification.

**Note:** A name having an ethnic or racial identification may be used if necessary to illustrate an instruction that depends upon the use of that name, such as how to construct a Name Control, how to file records, or how to transliterate from a foreign alphabet.

- d. Any name or address that may be seen as casting reflections on the character or behavior of any person or of taxpayers in general, or that may be seen as whimsical or provocative.



e. Any name that may be associated with a joke, anecdote, or anagram, or could detract from the efficient and businesslike presentation of the information involved.

- (3) Names may be selected from a class of objects such as colors, animals, plants, the phonetic alphabet or common natural names such as Brown, Doe, Jones, and Smith. Good judgment should be used to avoid objects or combinations of objects that might suggest results contrary to the intent of this instruction.
- (4) Business or corporate names must be similarly selected or constructed, and must avoid any possibility of suggesting to the reader any actual business organization.
- (5) City names should similarly be neutral such as “Anytown,” or use the name of a major city having no unfavorable connotations in relation to the materials with which they are being associated. The use of obscure or unusual place names is to be avoided. Zip codes should be for major cities or should be fictitious.

11.3.12.6.3  
(09-28-2018)  
**Limiting Distribution**

- (1) Once the determination has been made that published material must include return information, taxpayer identities, or similar information, every effort must be made to limit its distribution to employees having a need to know in accordance with the provisions of IRM 10.2, Physical Security Program.
- (2) “Official Use Only” material, although not available to the public, may nevertheless have wide distribution within the IRS. Return information and taxpayer identities should only be distributed to individuals with a valid business need to know as defined in IRC 6103(h)(1).
- (3) Designated published materials may be produced in limited numbered editions so that the function issuing the material may control distribution as needed.
- (4) Consider splitting information so that general instructions appear in a published portion and taxpayer identities are separately distributed to employees who have a need to know.

**Example:** A procedure may appear in the IRM but the identities of taxpayers subject to the procedure are sent to each affected office by a memorandum containing only the names that relate to that office.

- (5) When return information or taxpayer identities appear in published issuances, take care to ensure the prompt revision, destruction or other disposition as soon as the information is no longer needed.
- (6) Any electronic delivery of material containing “Official Use Only” or statutorily protected information must conform to statutory requirements (e.g., only available to agency employees with a need to know for official duties) along with any appropriate computer security standards.

11.3.12.6.4  
(09-28-2018)  
**Designation and Labeling**

- (1) Any return information or taxpayer identity that has not become public information (e.g., revealed by IRS in connection with tax administration in court) or personal information subject to 5 USC 552a, except as available pursuant to the Freedom of Information Act, must be designated “Official Use Only” if it appears in a published document.

- (2) Additionally, the document must include a specific statement alerting users to the nature of the information contained, such as the following:
  - a. “This document (or this page) contains return information, the dissemination of which must be limited to IRS employees with a need to know. Further accesses or disclosure may subject the responsible employee to the criminal sanctions of IRC 7213 and/or IRC 7213A”.
  - b. “This document (or this page) contains personal information, the dissemination of which must be limited to IRS employees with a need to know. Further disclosure may subject the responsible employee to criminal penalties under 5 USC 552a(i)1”.
- (3) The applicable statement should appear on the cover of bound documents, and on each page containing such material if such pages are separately produced or designed for removal from the document.
- (4) A similar statement should appear on any transmittal sheet or covering letter associated with such material.

11.3.12.6.5  
(09-28-2018)  
**Review and  
Authorization**

- (1) Return information, taxpayer identities, and personal information protected by 5 USC 552a may only be included in published materials when authorized by officials having designation authority pursuant to Delegation Order 11-1.
- (2) Such materials must be reviewed by and have the concurrence of the Office of Disclosure prior to publication.

11.3.12.7  
(09-28-2018)  
**Disclosure  
Requirements Under the  
Freedom of Information  
Act (FOIA)**

- (1) The Freedom of Information Act (FOIA), 5 USC 552 (a)(2)(C) requires agencies to proactively disclose “administrative staff manuals and instructions to staff that affect a member of the public.” These types of materials, if sensitive, may need to be designated as OOU before being disclosed to the public.

11.3.12.7.1  
(09-28-2018)  
**Transparency of  
Instructions to Staff**

- (1) The FOIA as amended in 1996 requires disclosure to the public in an electronic form. This provision of the law requiring electronic disclosure is referred to as the Electronic Freedom of Information Act (E-FOIA).
- (2) To comply with this law, the IRS has a FOIA Library web page on IRS.gov. Administrative staff manuals and instructions to staff, such as the IRM, are posted to the *IRS FOIA Library*.

**Note:** Official Use Only (OOU) information is removed from posted materials as it is exempt from public disclosure under 5 USC 552(b).

- (3) Organizations that issue instructions to staff outside of the IRM, such as interim guidance, are responsible for identifying instructions to staff that meet the conditions under the FOIA and for posting their documents on the FOIA Library. See IRM 1.11.10.4, Evaluation of Interim Guidance for E-FOIA.

11.3.12.7.2  
(09-28-2018)  
**Complying with FOIA  
Requirements for  
Instructions to Staff**

- (1) Most instructions to staff are included in the IRM. The IRM and other types of Internal Management Documents (IMD) maintained in the core repository of published products (CROPP) are posted to the FOIA Library page on IRS.gov by Media & Publications as part of the IRM publishing process.



- (2) SPDER posts recently issued Policy Statements and Servicewide Delegation Orders not yet incorporated into the IRM to the FOIA Library on IRS.gov.
- (3) The program owner is responsible for ensuring that all other instructions to staff that meet E-FOIA criteria, e.g. interim guidance memoranda and Servicewide Electronic Research Program IRM Procedural Updates (SERP IPU), are posted to the FOIA Library web page.
- (4) Use the web-based tool, the *E-FOIA Decision Tool*, for help determining whether instructions to staff meet E-FOIA criteria and require posting on the FOIA Library on IRS.gov.
- (5) *Contact Disclosure* if additional help is needed.

11.3.12.7.3  
(09-28-2018)  
**E-FOIA Criteria for  
Instructions to Staff**

- (1) All of the following conditions must exist for the internal management documents to meet 5 USC 552(a)(2)(C) for disclosure to the public and posting to the FOIA Library on IRS.gov:
  - a. The guidance is procedural and communicates direction, guidelines, or standards to employees in the performance of their assigned duties.
  - b. The guidance affects how a member of the public files, pays, complies with their tax requirements, or interacts with the Service.
  - c. The guidance is not exempt from disclosure under 5 USC 552(b) and there is not a reasonable expectation of harm resulting from its disclosure. See IRM 1.11.10.4.1.1, Disclosure Exemptions for Instructions to Staff.
- (2) If the document merely restates procedures already available in full on IRS.gov, then it is not necessary to post the document on the FOIA Library.

