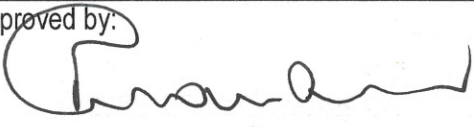
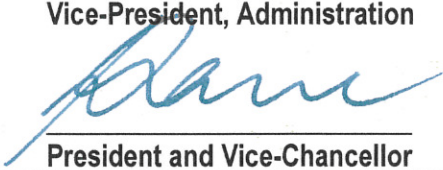


Complete Program Title: Controlled Goods and/or Controlled Technology Program	Risk Management Manual (RMM) Number: 507
Approved by:  Vice-President, Administration  President and Vice-Chancellor	Date of Most Recent Approval: June 2016
Date of Original Approval: August 2009	Supersedes/Amends Program dated: August 2009
Responsible Executive: Vice-President, Administration	Enquiries: Environmental and Occupational Health Support Services (EOHSS) eohts@mcmaster.ca
DISCLAIMER: <i>If there is a discrepancy between this electronic program and the written copy held by the program owner, the written copy prevails.</i>	

1 PURPOSE

- 1.1 To provide a system and procedure for the responsible management of controlled goods and/or controlled technology as identified under the Controlled Goods Program (CGP) of the Canadian Federal Government for the prevention of the proliferation of weapons of mass destruction, and conventional weapons, and goods that have military or national security significance.
- 1.2 To ensure compliance with the Defence Production Act (DPA), the Controlled Goods Regulations (CGR), and the International Traffic and Arms Regulation (ITAR).

2 SCOPE

- 2.1 All faculty, staff, students, volunteers, visitors, temporary workers, contractors and sub contractors who require, in the course of their duties, access, examination, possession of or transfer of controlled goods and/or controlled technology.

3 Related Documents

- 3.1 Controlled Goods Regulations (CGR)
- 3.2 Defence Production Act (DPA)

- 3.3 International Traffic and Arms Regulation (ITAR)
- 3.4 Export Control List, published by the Department of Foreign Affairs and International Trade Canada (DFAIT)
- 3.5 Export and Import Permits Act (EIPA)
- 3.6 Hazardous Materials Management System (WHMIS) RMM# 501
- 3.7 Transportation of Dangerous Goods Program RMM#505
- 3.8 Controlled Goods and/or Controlled Goods Technology:
<http://ssi-iss.tpsgc-pwgsc.gc.ca/dmc-cgd/ressources-resources/lois-legislation-eng.html#a>

4 DEFINITIONS

- 4.1 **Access:** means to possess, transfer or examine controlled goods and/or controlled technology. **Direct Access:** means direct involvement in the acquisition, repair, modification, transfer or disposal of controlled goods and/or controlled technology, or the transmission, reception, interpretation, manipulation or safe keeping of controlled goods and/or controlled technology information. Such involvement is usually carried out unhindered or under little or no supervision.
- 4.2 **Examine:** To investigate controlled goods by any means so as to provide a person with detailed knowledge of the controlled goods' inherent properties and performance characteristics that would allow that person to use this knowledge so that the good could be reproduced or replicated, or the performance of a similar article could be improved.
- 4.3 **Possess:** Either actual possession, where a person has direct physical control over a controlled good at any given time, or constructive possession, where the person has the power and the intention at a given time to exercise control over a controlled good, either directly or through another person or persons.
- 4.4 **Transfer:** means in respect of a controlled good and/or controlled technology to dispose of it or disclose its content in any manner.
- 4.5 **Designated Official (DO):** Person certified under the Controlled Goods Program responsible for the controlled goods and/or controlled technology present at the University and the registration of these controlled items under the Controlled Goods Program.
- 4.6 **Controlled Goods:** as listed in the schedule to the Defence Production Act (DPA), are those military, strategic, and military-related goods and technology, as well as dual-use goods and technology as identified in Group 2 (not all items), Item 5504 and Group 6 (all items), of the Export Control List (ECL) made under authority of the

Export and Import Permits Act (EIPA), and any US-origin good or technology that is a “defence article” as defined under the ITAR or a non-US origin good that is manufactured using “technical data” of United States origin, as defined under the ITAR if the “technical data” is a “defence article”.

- 4.7 **Group 2 Goods (Munitions List):** Includes, but is not limited to, automatic weapons, firearms, ammunition, components, projectors, bombs, fighter jets, tanks, missiles, chemicals, explosives, and related equipment and components, etc.
- 4.8 **Group 5 Goods-Item 5504 (Strategic Goods):** Includes but is not limited to, global navigation satellite systems, ground control stations, and nuclear weapon design and testing equipment.
- 4.9 **Group 6 (Missile Technology Control Regime):** Includes but is not limited to, missile technology-rocket systems, unmanned air vehicle systems, propulsion components and equipment.
A complete list of Groups 2, 5, & 6 can be found on the Export Control List website: <http://laws-lois.justice.gc.ca/eng/regulations/SOR-89-202/page-2.html#h-3>
- 4.10 **Controlled Technology:** Technology necessary for the development, production or use of a controlled good. These technologies include **Technical Data:** blueprints, formulae, engineering models, etc.) and **Technical Assistance:** instructions, training, working knowledge, etc.
- NOTE:** Not all technology is controlled – The Department of Foreign Affairs can provide an advisory opinion
- 4.11 **Description of Controlled Good:** For Record Keeping Purposes, the Name of controlled good(s), Part Number of the Controlled Good, NATO Stock Number, Group and Item Number in the Export Control List, if known and available, as well as a Decision by the Department of Foreign Affairs and International Trade on the control status of the good, if available.
- 4.12 **Temporary Worker:** An individual who is an officer, director or employee of a person registered under the Controlled Goods Regulations and who is not a Canadian citizen ordinarily resident in Canada, nor a permanent resident ordinarily resident in Canada.
- 4.13 **Contractual Worker:** any person who undertakes a contract for services with a registered person. This term includes contractors, subcontractors, independent service providers, consultants, etc. and their staff as well as agencies and agency referred personnel.

- 4.14 **Visitor:** An individual who is not an officer, director or employee of a registered person and who is not a Canadian citizen ordinarily resident in Canada or a permanent resident ordinarily resident in Canada.
- 4.15 **ITAR:** International Traffic in Arms Regulations. Individuals who are registered with ITAR may be exempt from registration with the CGP pending documentation is provided to the DO in support of the exemption.
- 4.16 **Acronyms:**
- CGR-Controlled Goods Regulations
 - CGP-Controlled Goods Program
 - CGD-Controlled Goods Directorate
 - DPA-Defence Production Act
 - ITAR – International Traffic and Arms Regulation
 - DO-Designated Official
 - ECL-Export Control List
 - EOHSS-Environmental and Occupational Health Support Services
 - PWGSC-Public Works and Government Services Canada

5 RESPONSIBILITIES

5.1 Role of Senior Managers (Deans /Chairs /Directors)

Senior Managers shall take all reasonable care to ensure that:

- Administrative structures, programs and resources are in place and demonstrate corporate due diligence in complying with the Controlled Goods Program;
- Orders and requirements of inspectors and directors are complied with;
- Orders of the Department of Public Works and Government Services Canada, as legislated by the Defence Production Act and the Controlled Goods Regulations are complied with;
- Any charges related to controlled goods offenses under the Act and Regulations are responded to and defended in an appropriate manner.
- Provide the resources and direction necessary to support departments in developing and implementing programs and practices that ensure compliance with the Controlled Goods Program.

5.2 Designated Official (DO)

Environmental and Occupational Health Support Services (EOHSS) has been delegated the administrative responsibilities [Designated Official (DO)] for the CGP at the University.

The DO shall:

- Be certified under the Controlled Goods Program by completing the Designated Official Certification Program;
- Conduct, with the consent of the individual who will examine, possess and/or transfer controlled goods and/or controlled technology, a security assessment in accordance with Section 15 of the CGR;
- Determine on the basis of the security assessment, the extent to which the individual poses a risk of transferring controlled goods and/or technology to any person who is not registered or exempt from registration;
- Make and keep on the basis of the security assessment, an evaluation as to the honesty, reliability, and trustworthiness of the individual concerned;
- Authorize, in respect of those individuals concerned who have been evaluated as honest, reliable and trustworthy, the extent to which they may examine, possess, or transfer controlled goods and/or technology;
- Submit applications for exemptions to the Minister in respect of temporary workers or visitors in accordance with Section 18 of the CGR;
- Keep and maintain a record of controlled goods, security assessments and supporting documentation, information on the identity of exempt individuals and evidence regarding the classes of exempt individuals;
- Establish and implement a security plan in conjunction with Security Services and the Individual. Conduct workplace inspections as necessary;
- Provide training programs and security briefings in respect of the secure handling of controlled goods and/or technology;
- Advise the CGP of any security breaches in relation to controlled goods and/or controlled technology;
- Keep and maintain records of registered individuals and security assessments for a period of two years after the day on which the registered individual ceases to be an employee, officer, or director of the employer; and
- The DO shall also maintain compliance with the CGP and allow for inspections of the institution to ensure conformity with the legislation.

5.3 **Role of Individuals (Faculty, Staff, Students, Volunteers, Contractual Workers, Visitors)**

Individuals shall:

- Follow all prescribed practices and procedures related to the CGP, including the Export Control List respecting controlled goods and/or controlled technology, and ITAR requirements if applicable;
- Report to the supervisor of involvement with the examination, possession and/or transfer of controlled goods and/or controlled technology;
- Inform the DO of his/her anticipated and/or current examination, possession and/or transfer of controlled goods and /or controlled technology. Submission of registration/application to the DO shall be two months prior to receiving goods and/or technology;
- Complete a security assessment with the DO and provide same to the DO in accordance with Section 15 of the Act and Regulations. Where applicable, provide the DO with the information necessary for registration exemptions as identified under the Act and Regulations;
- Complete the mandatory Controlled Goods training ; and
- Report to DO in regards to changes with different controlled goods, security breaches, assessment plans, etc.

5.4 **Role of Sub Contractors and Contract Workers**

Sub Contractors and Contract Workers shall:

- In addition to the procedures outlined in 6.4, sub contractors who examine, possess or transfer controlled goods and/or controlled technology must be registered with the Controlled Goods Directorate (CGD);
- Contract workers who require direct involvement in the acquisition, repair, modification, transfer, or disposal of controlled goods and/or technology or the transmission, reception, interpretation, manipulation or safekeeping of controlled goods and/or controlled technology must be registered with the CGD.

6 **SECURITY ASSESSMENTS**

- 6.1 CGP is responsible for completing the security assessment of DO, while individual security assessments are the responsibility of the DO.

6.2 Security assessments include the following:

- References;
- Places of Residence;
- Employment History;
- Education History; and
- Criminal History.

6.3 Security assessments can be accepted up to five years, as long as the individual remains in the employment of the University. A security reassessment can be made any time prior to the five year period should the DO consider it appropriate to do so in view of particular circumstances.

6.4 Security assessments conducted by the DO are subject to inspection by the CGD at any time over the period of registration and for a period of two years after the day on which the person ceases to be an employee, officer, or director of the University.

7 SECURITY PLAN

7.1 The DO, together with Security Services and the Individual will review and develop a Security Plan in accordance with Section 2.5 of the Guideline for Controlled Goods Program.

A Security Plan is a written document that sets out:

- Procedures to control examination, possession and transfer of controlled goods;
- Identification of individuals responsible for security;
- Responsibilities of security organization;
- Procedures for reporting and investigating security breaches; and
- Contents of training programs and security briefings.

8 SECURITY BREACHES

8.1 Security breaches can be categorized as follows: destruction, modification, removal or disclosure, of controlled goods and/or controlled technology. This includes, but is not limited to:

- Loss of a controlled good and/or technology (known theft or disappearance);
- Unauthorized access to a controlled good;
- Appearance of willful damage or tampering to a controlled good;
- Witness of unauthorized persons examining controlled goods and/or controlled technology; and

- Transfer to a controlled good (including information format) to an unauthorized person.
- 8.2 Any breach of a criminal nature that can be subject to conviction under the Criminal Code (theft) must be reported to the appropriate criminal police body or agency such in turn without delay to the CGD through the DO. A follow up report detailing the investigation and subsequent conclusions is to be forwarded to the CGD.
- 8.3 Established procedures to follow in case of a breach:
- Contact DO and University security officials;
 - Investigate breach;
 - Inform CGP without delay;
 - Document with written report-submit to CGP;
 - Report to appropriate law enforcement agency if criminal in nature; and
 - Implement corrective measures.

9 RECORD KEEPING

Section 10 of the Controlled Goods Regulations requires the following record - keeping requirements:

- 9.1 Records must be kept and maintained by the DO to include any controlled goods and/or controlled technology, received, transferred or disposed of. The records must be kept during the period of registration and for a period of five years after the day on which the person ceases to be a registered person.
Records must be maintained by the DO to include a copy of evidence regarding the ITAR exempt individuals. The records must be kept during the period of registration and for a period of two years after the individual ceases to have access to the controlled goods and/or controlled technology of the registered person.
During the period of registration and for a period of five years after the day on which the person ceases to be a registered person, the DO will keep records and supporting documentation of all visitors who will be permitted access to the controlled goods and/or controlled technology at the University.
- 9.2 Records must contain a description of the controlled goods and/or controlled technology received by the person, the date of their receipt, and the identity and address of the person from whom they were transferred.
- 9.3 A description of any controlled goods and/or controlled technology transferred by the person, the date of their transfer and the identity and address of the person to whom they were transferred.
- 9.4 A description of the manner and date of the disposition of the controlled goods.
- 9.5 Keeping records of Security Assessments shall include:

- Security Assessment applications;
- Reference checks; and
- Supporting Documentation.

9.6 Keeping records of Visitors and Temporary Workers shall include:

- Applications of and certificates for Exemption;
- Proof of identification (passport, birth certificates);
- Preliminary security assessment conducted by DO (temporary worker); and
- Proof of Employment authorization (temporary worker).

9.7 Security assessments are held with the DO, and are subject to inspection by the CGD as required.

10 COMPLIANCE

10.1 Section 37(1) of the **Defence Production Act**: No person shall, unless the person is registered under Section 38 or exempt from registration under Sections 39 or 29.1, knowingly examine or possess a controlled good or transfer a controlled good to another person

10.2 Section 37(2) of the **Defence Production Act**: No person registered or exempt from registration shall knowingly transfer a controlled good to or permit the examination of a controlled good by a person who is not registered or exempt from registration

10.3 Section 44 of the **Defence Production Act**: No person shall:

- a) make any false or misleading statement or provide false or misleading information to an inspector or other person carrying out functions under this **Defence Production Act**;
- b) destroy any record or document required to be kept under this **Defence Production Act** or the regulations;
- c) make a false entry in a record required to be kept under this **Defence Production Act** or the regulations or omit to make any entry in such a record;
- d) interfere in any way with anything detained or removed by an inspector, except with the inspector's permission; or
- e) fail to comply with any reasonable request of an inspector or otherwise obstruct an inspector in the performance of the inspector's functions.

10.4 Penalties and Offenses

(1) Every person who contravenes section 37 of the Act is guilty of :

- a) an offence punishable on summary conviction and liable to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding two years, or to both; or
- b) an indictable offence and liable to a fine not exceeding \$2,000,000 or to imprisonment for a term not exceeding 10 years, or to both.

11 INSPECTIONS

Under the Act and Regulations, persons registered for controlled goods and/or controlled technology are subject to inspections from the CGD.

11.1 An inspection is carried out to:

- Ensure that sub-contractors that examine, possess, or transfer controlled goods and/or controlled technology are registered;
- Maintain constant communication on the CGP with key officials and employees;
- Review security assessments and supporting documents;
- Review if training has been provided to authorized individuals and that a record of the training is kept;
- Review security practices and processes and adjust as required;
- Revise security plan(s) and make necessary amendments;
- Determine if security breaches have been reported, if applicable; and
- Communicate for the purpose of compliance with other legal and contractual obligations.

11.2 With regard to inspections, the DPA states that an inspector may:

- Enter and inspect any place at any reasonable time;
- Question any person;
- Require any person to produce for inspection any document believed to contain any relevant information (photocopies may be requested);
- Detain or remove any controlled good;
- Require any individual in charge to take corrective measures.