

## ACADEMIC COUNCIL REPORT

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**SESSION:**

Public

**ACTION REQUESTED:**

Decision   
 Discussion/Direction   
 Information

**TO:** Academic Council

**DATE:** January 26, 2020

**PRESENTED BY:** Jennifer Freeman (ORS) and Shay Babb (USGC)

**SUBJECT:** Controlled Goods Policy

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**ACADEMIC COUNCIL MANDATE:**

- In accordance with Article 1.3(b) of By-law No. 2, and the Policy Framework, Academic Council will be consulted on the establishment of any research policies that are organizational in nature, or those implemented to fulfil legal compliance obligations. The Controlled Goods Policy falls within the Legal, Compliance and Governance category of the Policy Framework.
- The Office of Research Services (ORS) and the Office of the University Secretary and General Counsel (USGC) are presenting the draft Controlled Goods Policy to Academic Council (AC) for consultation.

**BACKGROUND/CONTEXT & RATIONALE:**

- The Controlled Goods Policy is being established to demonstrate compliance with Canada’s Controlled Goods Program, a Federal Government program administered by the Controlled Goods Directorate.
- The Controlled Goods governance framework will define the University’s management plan for Controlled Goods and/or Controlled Technology to prevent the proliferation of weapons of mass destruction, conventional weapons, and goods that have military or national security significance.
- The Controlled Goods Policy applies to all University Members (e.g. University employees, students, and those holding appointments, such as, adjunct status).
- The accountability framework identifies the roles and responsibilities of University Members and defines the requirements associated with the University’s registration in the Controlled Goods Program.

**CONSULTATION:**

- Developed in consultation between the Compliance Office (USGC) and the Office of Research Services (ORS).
- Policy Advisory Committee – April 21, 2020 for consultation.
- Research Board – November 23, 2020 for consultation. The Research Board did not request any changes and supported approval.
- Online Consultation – November 30 to January 26, 2020 for consultation.
- Academic Council – January 26, 2021 for consultation.

**COMPLIANCE WITH POLICY/LEGISLATION:**

- The Controlled Goods Policy will create an institutional compliance program to ensure that the University can comply with the requirements under the *Defence Production Act* and the *Controlled Goods Regulations*.

**NEXT STEPS:**

- Additional consultation and deliberation will take place over the next several months, as per below:
  - Audit & Finance Committee – February 17, 2021 for consultation.
  - Administrative Leadership Team – February 9, 2021 for consultation.
  - Audit & Finance Committee – April 14, 2021 for deliberation.
  - Board of Governors – April 23, 2021 for approval.

**SUPPORTING REFERENCE MATERIALS:**

- Controlled Goods Policy

Classification Number	<i>To be assigned by Policy Office</i>
Framework Category	Legal, Compliance and Governance
Approving Authority	Board of Governors
Policy Owner	Vice-President, Research & Innovation
Approval Date	DRAFT FOR REVIEW
Review Date	
Supersedes	

## CONTROLLED GOODS PROGRAM POLICY

### PURPOSE

1. The purpose of this Policy is to define the authority, obligations and procedures established and maintained by the University to achieve compliance with Canada’s Controlled Goods Program which is a Federal Government program administered by the Controlled Goods Directorate under the Defence Production Act and the Controlled Goods Regulations.
2. To provide a framework for the responsible management of Controlled Goods and/or Controlled Technology for the prevention of the proliferation of weapons of mass destruction, and conventional weapons, and goods that have military or national security significance.

### DEFINITIONS

3. For the purposes of this Policy the following definitions apply:

**“Access”** means to Possess, Transfer or Examine Controlled Goods and/or Controlled Technology. This may include the direct or indirect 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.

**“Authorized Individual”** is an individual that is responsible for ensuring that a Designated Official is appointed for each University Work Site in Canada where Controlled Goods and/or Controlled Technology are examined, possessed or transferred; and has signing authority to approve any changes in any of the information contained in the application for registration.

**“Controlled Goods”** means as listed in the schedule to the *Defence Production Act*. They are listed as Group 2, Group 5 (section 5504), and Group 6 of the Export Control List. These groups are described as follows:

- **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.

- **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.
- **Group 6 (Missile Technology Control Regime):** Includes but is not limited to, missile technology-rocket systems, unmanned air vehicle systems, propulsion components and equipment.

**“Controlled Goods Guide”** means the guide to the Controlled Goods List that provides a simplified listing of the items that are identified as Controlled Goods. The guide helps identify whether or not an item is included on the Controlled Goods List, but the detailed *Controlled Goods List* takes precedence over this guide.

**“Controlled Goods List”** means the list of goods set out in the schedule to the Defense Production Act as defined above in “Controlled Goods”.

**“Controlled Goods Program”** is an industrial security program that is authorized by the *Defence Production Act*. The Canadian Government’s Controlled Goods Directorate administers the Controlled Goods Program to prevent the proliferation of tactical and strategic assets and to build up Canada's defence trade controls. Public Services and Procurement Canada is the federal agency responsible for this program.

**“Controlled Technology”** technology necessary for the development, production or use of a Controlled Good. These technologies include information necessary for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of Controlled Goods. This information may take the form of Technical Data or Technical Assistance. Controlled Technology does not include general scientific, mathematical or engineering principles commonly taught in a school, college or university, information in the public domain, basic marketing information or general system descriptions.

**“Designated Official(s)”** means an official responsible for ensuring compliance with the Controlled Goods Program, with responsibility within a certain area of the University.

**“Examination”** means to investigate Controlled Goods and/or Controlled Technology by any means so as to provide a person with detailed knowledge of the Controlled Goods and/or Controlled Technology 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.

**“Functional Units”** Means any Faculty, Department, Administrative Unit, Research Facility (e.g. ACE) or Third-Party Contractor in which the Controlled Goods Program applies.

**“Unit Leads”** means any University members in charge of a Functional Unit.

**“ITAR”** International Traffic in Arms Regulations. Individuals who are registered with ITAR may be exempt from registration with the Controlled Goods Program pending documentation is provided to the Designated Official in support of the exemption.

**“Possession”** means to actually possess, wherein the person has direct physical control over a Controlled Good at a 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.

**“Project Leads”** means a University Member responsible for, or involved in, a project, research or otherwise, that the Controlled Goods Program applies.

**“Security Assessment”** is a risk assessment carried out by the Designated Official that is required by law for anyone Examining, Possessing or Transferring Controlled Goods and/or Controlled Technology. Through this assessment Designated Official determines the extent to which the individual poses a risk of Transferring a Controlled Good to a non-registered or exempt individual.

**“Security Breach”** means the unauthorized Examination, Possession or Transfer of Controlled Goods and/or Controlled Technology.

**“Security Plan”** is a written document that sets out the following:

- procedures to control the Examination, Possession and Transfer of Controlled Goods and/or Controlled Technology,
- individuals responsible for security,
- responsibilities of the security organization,
- procedures for reporting and investigating security breaches,
- contents of training programs and security briefings.

**“Security Briefings”** is the information provided to all visitors prior to the Examination of Controlled Goods.

**“Technical Assistance”** includes assistance provided in the form of instruction, skills, training, working knowledge or consulting services and may involve the transfer of Technical Data.

**“Technical Data”** includes Controlled Technology in the form of blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions.

**“Transfer”** means, in respect of a Controlled Good, to dispose of it or disclose its content in any manner. This would include sharing or giving access (physical, verbal or electronic) to Controlled Technology, which includes but is not limited to, Technical Data, software or providing Technical Assistance in respect of a Controlled Good.

**“University” or “Ontario Tech University”** means the University of Ontario Institute of Technology (operating as Ontario Tech University).

**“University Member”** means any individual who is:

- Employed by the University (including temporary workers, research personnel);
- Registered as a student, in accordance with the academic regulations of the University (including international students);
- Holding an appointment with the University, including paid, unpaid and/or honorific appointments; and/or
- Otherwise, subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract (including contractors and subcontractors).

**“Work Site”** means each physical place of business in Canada where Controlled Goods and/or Controlled Technology are examined, possessed or transferred by the Controlled Goods registrant.

## **SCOPE AND AUTHORITY**

4. This Policy applies to all University Members who may be involved in the Examination, Possession or Transfer of; or, may have any form of Access to any Controlled Good at, related to, on behalf of or in connection with Ontario Tech University.
5. The Vice-President responsible for Research and Innovation, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of this Policy.

## **POLICY**

6. Ontario Tech University is committed to managing and safeguarding Controlled Goods used in research, scholarly work and other University activities. This Policy is intended to manage the University’s obligations in accordance with applicable statutes, regulations, directives, policies and instructions, including Canada’s Controlled Goods Program. This Policy applies to the entire life cycle (from acquisition/creation through to disposal/destruction) for any Controlled Goods and/or Controlled Technology that the University may have Access to, Examine, Transfer or have in its Possession.
7. The University is registered in Canada’s Controlled Goods Program. Any addition of Controlled Goods and/or Controlled Technology, individuals, or Work Sites requires prior review, a Security Assessment and authorization by a Designated Official.

8. If any University Member wishes to Examine, Possess or Transfer Controlled Goods and/or Controlled Technology must contact a Designated Official prior to any activity falling under the Controlled Goods Program.

## **ROLES AND RESPONSIBILITIES**

### **9. Roles and Responsibilities**

#### **9.1 Office of the Vice-President Research and Innovation will:**

- a) Act as the primary authority for the Controlled Goods Program at the University.
- b) Designate at least one individual to be the Authorized Individual registered with Canada's Controlled Goods Directorate.
- c) Oversee the implementation, administration and interpretation of this Policy.
- d) Maintain the University's registration in the Controlled Goods Program.
- e) Coordinate the monitoring and review of this Policy with the Research Board, or successor thereof.
- f) Coordinate the development of supporting procedures and training materials to support compliance with this Policy.
- g) Designate at least one individual to serve as Designated Official for the University.
- h) Arrange training and retraining for Designated Officials.
- i) Maintain a register of Designated Officials along with proof of training and certification to serve as a Designated Official under the Controlled Goods Program.
- j) Maintain a register of activities, Work Sites and Controlled Goods and/or Controlled Technology that are authorized and registered under the Controlled Goods Program.
- k) Support a University website with links to relevant legislation, training materials and list of Designated Officials to support compliance with this Policy.
- l) Support the development of the supporting procedures, guidance and training materials.
- m) Cooperate with the University Secretary and General Counsel in the performance of the University Secretary and General Counsel.

#### **9.2 Designated Official(s) will carry out the duties prescribed in the Controlled Goods Regulations and the Defence Productions Act which include, but are not limited to:**

- a) Be certified under the Controlled Goods Program by completing the Designated Official Certification Program;

- b) Answer questions about export controls for their area of responsibility;
- c) Conduct Security Assessments and Security Briefings for all University Members who wish to Examine, Possess or Transfer any Controlled Goods;
- d) Submit applications for exemptions to the Minister in respect of temporary workers or visitors in accordance with Section 18 of the Controlled Goods Regulations;
- e) Develop and implement a Security Plan for every Work Site where Controlled Goods and/or Controlled Technology are Examined, Possessed or Transferred;
- f) Authorize Work Sites, individuals and new uses of Controlled Goods and/or Controlled Technology;
- g) 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;
- h) In conjunction with the Office of the General Counsel, develop a report of all Security Breaches;
- i) Advise the Canada Controlled Goods Directorate of any Security Breaches in relation to Controlled Goods and/or Controlled Technology;
- j) Conduct training or make training available for University Members seeking to use Controlled Goods and/or Controlled Technology;
- k) Maintain recordkeeping obligations required under the Controlled Goods Program; and
- l) Maintain compliance with the Controlled Goods Program and allow for inspections of the University to ensure conformity with the legislation.
- m) Cooperate with the University Secretary and General Counsel in the performance of the University Secretary and General Counsel.

**9.3 Office of the University Secretary and General Counsel will:**

- a) Audit and report on Controlled Goods Program compliance, and in this regard will be given such access to files and information as is required to fulfil this role.
- b) Designate at least one individual to serve as Designated Official for the University's Faculties and Researchers as backup to the Designated Official in the Office of the Vice-President Research and Innovation.
- c) Monitor legislative changes and recommend revisions and/or updates to supporting policies and procedures to maintain the effectiveness of the Controlled Goods Program.



- d) Investigate and respond to the Controlled Goods Directorate in an appropriate manner to any charges related to Controlled Goods offenses under the Defence Production Act and the Controlled Goods Regulations.

**9.4 Office of Research Services will:**

- a) Assist with the execution of the roles and responsibilities of the Office of the Vice-President Research and Innovation.

**9.5 Functional Units will:**

- a) If decided upon by the Authorized Individual, designate one or more individuals to serve as Designated Official for the Unit
- b) Establish and implement Security Documentation to add to the site Security Plan once it is established that the Controlled Good Program applies to the Functional Unit

**9.6 Unit Leads will:**

- a) Administrative structures, programs and resources are in place and demonstrate due diligence in complying with the Controlled Goods Program;
- b) Orders and requirements of regulatory inspectors and directors are complied with;
- c) Orders of the Public Services and Procurement Canada, as legislated by the Defence Production Act and the Controlled Goods Regulations are complied with;
- d) The resources and direction necessary are provided to support their departments in developing and implementing programs and practices that ensure compliance with the Controlled Goods Program.
- e) Assist the Project Lead in the performance of the Project Lead roles and responsibilities.
- f) Cooperate with the Designated Official in the performance of the Designated Official duties.
- g) Cooperate with the University Secretary and General Counsel in the performance of the University Secretary and General Counsel.

**9.7 University Members will:**

- a) Refrain from the use of Controlled Goods and/or Controlled Technology without prior authorization from a Designated Official;
- b) Follow all prescribed practices and procedures related to the Controlled Goods Program.

- c) Avoid circumventing any technical or administrative safeguards in the use of Controlled Goods and/or Controlled Technology.
- d) Completed the Controlled Goods training; either, if you, your faculty or department have been identified as a mandatory participant;
- e) Report changes related to the handling of Controlled Goods or Controlled Technology at the University, Security Breaches and personnel background changes to the applicable Designated Official.
- f) Cooperate with the Designated Official(s) in the performance of the Designated Official duties.

**9.8 Project Leads will:**

- a) Perform all the roles and responsibilities of a University Member.
- b) Ensure and enforce the compliance of this Policy by all University Members under their supervision.
- c) Identify new University Members under their supervision who fall under this Policy and immediately inform the Designated Official.
- d) Promptly correct any identified Policy non-compliances and immediately advise the Designated Official(s).
- e) Inform the Designated Official(s) of his/her anticipated, current Examination, Possession or Transfer of Controlled Goods and/or Controlled Technology. Submission of registration/application to the Designated Official is recommended at least two months prior to receiving Controlled Goods and/or Controlled Technology;
- f) Complete a Security Assessment with the Designated Official and provide same to the Designated Official in accordance with section 15 of the Defence Production Act and the Controlled Goods Regulations. Where applicable, provide the Designated Official with the information necessary for registration exemptions as identified under the legislation;
- g) Cooperate with the Unit Leads in the performance of the Unit Leads roles and responsibilities; and
- h) Cooperate with the Designated Official in the performance of the Designated Official's roles and responsibilities.

**10. Identifying Controlled Goods**

- 10.1** It is the responsibility of each University Member to understand the requirements and restrictions of Canada's Controlled Goods Program;
- 10.2** It is also the responsibility of each University Member to assess the goods, including components, parts, technology, technical data or technical assistance that they may examine, possess or transfer to determine whether it is a Controlled Good. This assessment must be conducted prior to any Examination, Possession or Transfer of a Controlled Good and/or Technology;

- 10.3** The Controlled Goods List and the Controlled Goods Guide will be used by the University Member for the purposes of this assessment; and
- 10.4** If the University Member identifies a Controlled Good and/or Controlled Technology, they are required to contact the Designated Official to commence a Security Assessment before the Examination, Possession or Transfer of any Controlled Good.

## **11. Security Assessments**

- 11.1** Any University Member wishing to Examine, Possess or Transfer Controlled Goods for any purpose, including research or study, must first undergo a Security Assessment, successfully complete Controlled Goods training and be authorized by a Designated Official to Examine, Possess and/or Transfer the identified Controlled Goods.
- 11.2** Security Assessments will be conducted in accordance with the process set out by the Controlled Goods Program.
- 11.3** Security Assessments can be valid for up to five years, as long as the individual remains a University Member and/or the Designated Official determines that a new Security Assessment is not required prior to the end of the five-year period.
- 11.4** Security Assessments conducted by the Designated Official are subject to inspection by the Controlled Goods Directorate 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 a University Member.
- 11.5** A University Member is not permitted to share or provide Access to Controlled Goods to any person, within or outside of the University (including visitors, research partners or contractors) unless that person has an approved Security Assessment, registered or exempt under, and is in full compliance with the requirements of Canada's Controlled Goods Program and the University's Controlled Goods Policy and related procedures.

## **12. Security Plan**

- 12.1** For each Work Site where Controlled Goods are Examined, Possessed or Transferred, a Security Plan must be developed. A Security Plan is a written document that must include the following information:
  - a)** Procedures to control the Examination, Possession and Transfer of Controlled Goods at each applicable worksite;
  - b)** Procedures for reporting and investigating Security Breaches;

- c) Descriptions of the responsibilities of the University's administrative structure, and identification of individuals responsible for the security of Controlled Goods and/or Controlled Technology;
- d) Contents of training programs given to University Members, and
- e) Contents of Security Briefings given to visitors.

### **13. Security Breach Reporting**

**13.1** A Security Breach is the unauthorized Examination, Possession or Transfer of Controlled Goods and/or Controlled Technology. All breaches, suspected or confirmed, must be reported immediately to a Designated Official. The University is required to report any such breach to the Canada Controlled Goods Directorate within three (3) days upon discovery. The Designated Official will coordinate with the Office of the General Counsel to deliver the required report.

**13.2** Security Breaches involving Controlled Goods include:

- a) Loss of Controlled Goods, such as by theft or disappearance, including a breach of controlled Technical Data as a result of computer hacking or cyber attack or the theft of a device on which Controlled Goods and/or Controlled Technology are stored;
- b) Unauthorized Examination, Possession or Transfer of Controlled Goods and/or Controlled Technology, including its controlled Technical Data, or software by anyone, including unauthorized University Members;
- c) Appearance of willful damage or tampering to Controlled Goods/Technology; and
- d) Witness of unauthorized persons Examining Controlled Goods and/or Controlled Technology.

### **14. Controlled Goods Training**

**14.1** Every University Member who will Examine, Possess or Transfer Controlled Goods for any purpose is required to successfully complete the applicable Controlled Goods Program training.

## **MONITORING AND REVIEW**

15. This Policy will be reviewed as necessary and at least every three years. The Research Board, or successor thereof, is responsible to monitor and review this Policy.

#### **RELEVANT LEGISLATION**

16. Defence Production Act, R.S.C., 1985, c. D-1  
Controlled Goods Regulations, SOR/2001-32  
Controlled Goods List (Schedule 35 of Defence Production Act)  
Guide to the schedule to the Defence Production Act  
Export and Import Permits Act, R.S.C., 1985 c. E-19  
A Guide to Canada's Export Controls  
International Traffic in Arms Regulations, 22 CFR 120-130

#### **RELATED POLICIES, PROCEDURES & DOCUMENTS**

17. Access Control policy and procedure  
Adjunct Professors Policy  
Biosafety Program Manual  
Booking and Use of University Space  
Contract Management Policy  
Cotutelle Policy  
Creation of Research Entities Procedure  
Document Imaging Policy  
Information Security  
International Agreements Procedure  
International Travel, High Risk  
International Travel, Student  
Personal Use of University Resources  
Procurement of Goods and Services  
Technology Use  
Radiation Safety Manual

Records Disposition

Records Management

Responsible Conduct of Research and Scholarship

Risk Management Policy

Student Conduct Policy

Safe Disclosure Policy

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