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DEPARTMENT OF DEFENSE



**UNITED STATES - CANADA
JOINT CERTIFICATION PROGRAM**

*Control of Unclassified Technical Data
With
Military or Space Application*



December 1996

FOREWORD

The United States and Canada share a unique, long-standing military and economic relationship. The two countries are partners in the joint defense of North America and have established a bilateral common structure (NORAD) for mutual defense. Canadian industry is a part of the North American Defense Industrial Base. The United States and Canada consult and cooperate on the development of common industrial security procedures and technology controls. The two governments have entered into numerous bilateral agreements that codify and support this relationship.

In 1985, the United States and Canada signed a Memorandum of Understanding (MOU) that established the U.S.-Canada Joint Certification Program (JCP). As stated in the MOU's "Joint Terms of Reference for the United States-Canada Joint Certification Program," the program was established "to certify contractors of each country for access, on an equally favorable basis, to unclassified technical data disclosing critical technology" controlled in the U.S. by Department of Defense Directive 5230.25 and, in Canada, by the Technical Data Control Regulations. Under each nation's laws, the U.S. Department of Defense and Canada's Department of National Defence may withhold such technical data from public disclosure.

Policy oversight for security and technology sharing matters for the U.S./Canada Joint Certification Program is provided by the U.S./Canada Security and Technology Sharing Subcommittee of the Defense Development/Defense Production Sharing Arrangements Steering Committee (DD/DPSA).

This pamphlet has been jointly produced by the U.S. Department of Defense (DoD) and the Canadian Department of Public Works and Government Services Canada (PW&GSC) to explain how the program has developed and why; how an individual or enterprise located in the U.S. or Canada can become a certified contractor under the JCP; and what specific actions must be taken by persons working with unclassified technical data disclosing critical technology.

North American security demands that we combine our technology resources for mutual benefit. By working upon existing opportunities for defense-economic cooperation, we believe that we can better provide for the security of our respective nations.

This pamphlet is to be used in conjunction with DoD Directive 5230.25 and the Technical Data Control Regulations.

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I. INTRODUCTION

The establishment of the Joint Certification Program (JCP) benefits U.S. and Canadian defense and high technology industries by facilitating their continued access to unclassified technical data disclosing critical technology in the possession of, or under the control of the U.S. Department of Defense (DoD) or the Canadian Department of National Defence (DND). Certification under the JCP establishes the eligibility of a U.S. or Canadian contractor to receive technical data governed, in the U.S., by DoD Directive 5230.25 and, in Canada, by the Technical Data Control Regulations (TDCR).

U.S. Implementing Regulation

The provisions of Section 1217 of Public Law 98-94 are implemented in Department of Defense Directive 5230.25. This Directive sets forth policies, procedures and responsibilities for the withholding of unclassified technical data from public disclosure. DoD also has issued DoD Directive 5230.24, a companion directive to DoD Directive 5230.25, that establishes the distribution marking system for DoD-controlled technical documents.

Canadian Implementing Regulation

The Government of Canada recognized the need to establish regulations similar to DoD Directive 5230.25, not only for national security reasons, but also to ensure that Canadian contractors would continue to have access to DoD-controlled technical data. The TDCR, which largely parallels DoD Directive 5230.25, has been issued under the authority of the Canadian Defence Production Act. The regulations, for which the Minister of Public Works and Government Services Canada is responsible, came into effect on March 20, 1986.

Joint Certification Office

The U.S./Canada Joint Certification Program is managed by the U.S./Canada Joint Certification Office (JCO). The JCO, a common, jointly staffed office, is located at the Defense Logistics Information Service (DLIS), 74 Washington Avenue North, Battle Creek, Michigan 49017-3084. The JCO receives and processes certification forms submitted by U.S. and Canadian contractors that wish to obtain access to unclassified technical data disclosing critical technology under the control of, or in the possession of DoD or DND.

**II. CRITERIA FOR WITHHOLDING OF
UNCLASSIFIED TECHNICAL DATA
WITH MILITARY OR SPACE APPLICATION**

Access to unclassified technical data with military or space application (also referred to as technical data disclosing critical technology) is controlled when such technical data:

a. Are in the possession of, or under the control of DoD, or administered and controlled by DND;

b. May not be exported lawfully without an approval, authorization or license under U.S. or Canadian export control laws, as applicable; and

c. Disclose critical technology (see definition in **Appendix E**).

Unclassified technical data with military or space application (hereafter referred to as "technical data") includes any blueprints, drawings, plans, instructions, computer software and documentation, or other technical information that can be used, or adapted for use, to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce military or space equipment or technology concerning such equipment.

III. COMPANY PROPRIETARY DATA

The U.S./Canada Joint Certification Program and its procedures do not extend to company proprietary technical data. Therefore, it does not govern the private exchange of industry-generated export-controlled technical data. In these cases the contractors must follow the guidelines established in U.S. or Canadian export control regulations, as applicable. U.S. contractors should contact the U.S. Department of State Office of Defense Trade Controls at (202) 663-2700 to obtain additional guidance. Canadian contractors should contact the Department of Foreign Affairs and International Trade Canada Export Control Division at (613) 996-2387 to obtain more specific guidance.

IV. APPLICATION FOR CERTIFICATION

Because U.S. Public Law 98-94 only granted authority to withhold, not selectively disseminate technical data, a system of certification was established that permitted dissemination for legitimate business purposes while maintaining the ability of the DoD to withhold the data for other purposes. Equivalent withholding and dissemination provisions are reflected in the TDCR.

Completion of DD Form 2345

To become certified, U.S. contractors must submit a completed DD Form 2345 to the JCO. Canadian contractors may submit either a completed DD Form 2345 or DSS-MAS 9379 for certification. However, a DD Form 2345 shall be used when a Canadian contractor intends to request access to DoD-controlled technical data.

In addition, a copy of the company's State/Provincial Business License, Incorporation Certificate, Sales Tax Identification Form or other documentation which verifies the legitimacy of the company must accompany all DD Forms 2345.

Because technical data transferred to a certified contractor are mailed to the location shown on the form, each corporate subsidiary or division that is to receive unclassified technical data should be certified separately.

Contractors applying for certification are required to designate a person by name or position designation to act as the Data Custodian for the facility. This person will be responsible for receiving and disseminating any technical data transferred to the certified contractor under the provisions of the JCP. The individual chosen to fill the position of Data Custodian at a U.S. contractor facility must be a U.S. citizen or an intending citizen. In the case of the Canadian contractor facility the Data Custodian must be a Canadian or U.S. citizen or a person admitted lawfully for permanent residence into Canada.

The contractor's business activity is a key element of the certification process since this information will be used by the controlling office as a basis for approving or disapproving specific requests for technical data. Consequently, the business activity statement should be sufficiently detailed to support requests for any data that the contractor expects to need for legitimate business purposes. Proprietary or other sensitive information should not be included in the statement since the information entered on the form will be publicly available.

As a condition of receiving DoD- or DND-controlled technical data, the contractor agrees to use the data only in ways mandated by DoD Directive 5230.25 or the TDCR. The contractor must certify that it needs the technical data to bid or perform on a contract with an agency of the U.S. or Canadian Government or for other legitimate business purposes.

"Other legitimate business purposes" include:

a. Providing or seeking to provide equipment or technology to a foreign government with the prior approval of the U.S. or Canadian Government, as applicable;

- b. Bidding or preparing to bid on a sale of surplus property;
- c. Selling or producing products for the U.S. or Canadian commercial domestic marketplace, or for the commercial foreign marketplace, providing that any required export license is obtained from the appropriate U.S. or Canadian licensing authority;
- d. Engaging in scientific research in a professional capacity for either of the two defense establishments; or
- e. Acting as a subcontractor for a concern described in (a) through (d), above.

The contractor must acknowledge its responsibilities under the applicable U.S. or Canadian export control laws. The contractor must agree not to publicly disclose any unclassified technical data it receives under the agreement, unless specifically authorized by the controlling office, and to limit access to the data to individuals employed at its facility meeting the following citizenship requirement:

- a. U.S. citizens or intending citizens if the facility is located in the United States; and
- b. Canadian or U.S. citizens or permanent residents of Canada if the facility is located in Canada.

As a condition of receiving unclassified technical data, a contractor must certify on the form that to the best of its knowledge and belief the information provided and the certifications made are true, complete, and accurate and are made in good faith. A contractor that knowingly and willfully makes a false statement on the form can be punished by a fine or imprisonment or both under the U.S. Code, Title 18, Section 1001 or to a fine under Section 26 of the Canadian Defence Production Act, as applicable.

If a contractor violates the provisions of the agreement, the contractor's eligibility for access to unclassified technical data may be revoked. However, a contractor's eligibility for access may be reinstated when the basis for the revocation has been remedied. If a contractor exports the technical data without the benefit of license or other authorization, it may be in violation of export control laws and subject to severe criminal penalties. A contractor violating the provisions of the agreement may be subject to prosecution by the contracting authority.

The certification form is designed for ease of completion. When accepted by the JCO it constitutes an agreement among the certifying company, DoD, and PW&GSC. The DD Form 2345 is available at www.dlis.dla.mil/jcp or by calling the JCO at 1-800-352-3572.

DD Form 2345 Review Process

The JCO will review a DD Form 2345 submitted by a U.S. or Canadian contractor within five working days and:

- a. accept the certification; or
- b. return it because of insufficient information; or
- c. refer it to the Technical Data Program Manager, Technical Information Branch (DLA-MM), Headquarters, Defense Logistics Agency, for U.S. submissions, and to the Director, Canadian and International Industrial Security Directorate, Department of Public Works and Government Services Canada, for Canadian submissions, with a recommendation to reject the certification because the contractor does not meet the criteria for certification.

The chart at **Figure 1** details the procedures followed by the JCO to review DD Forms 2345 submitted by U.S. and Canadian contractors.

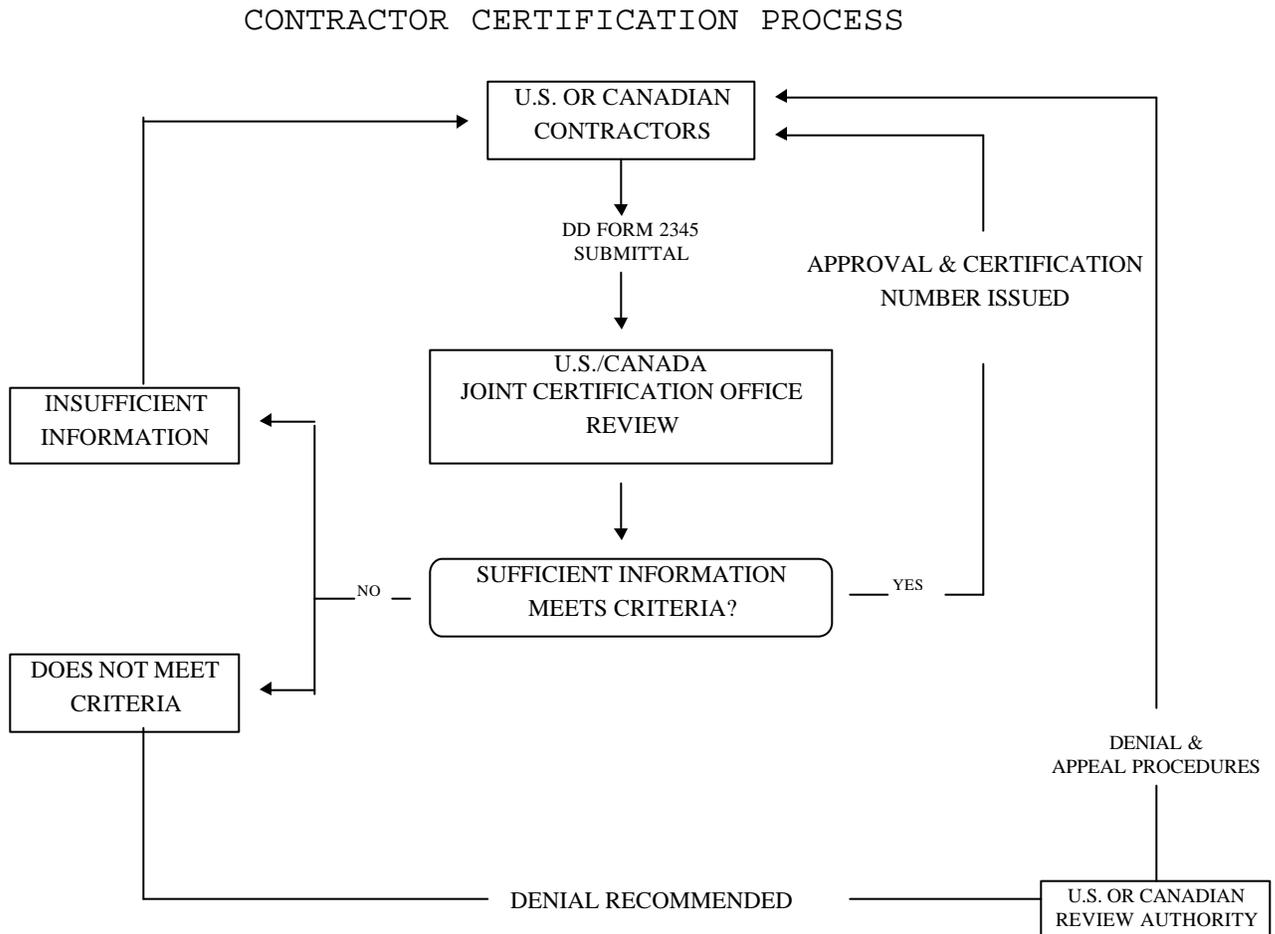


Figure 1

Certification Acceptance

Upon acceptance of a contractor's certification, the JCO will mail a copy of the original form to the Data Custodian. A seven-digit certification number is entered on the form prior to being mailed to the Data Custodian. The certification is valid for a renewable five year period unless the contractor is shown to have violated the terms of the agreement. The certification number refers to the "facility" rather than an "individual employee" and extends to U.S. and Canadian citizens and persons admitted lawfully for permanent residence into the U.S. or Canada (intending citizens) who are employed directly at the facility.

Once certified, the contractor may:

a. Request unclassified technical data controlled by the DoD or DND;

b. Respond to defense-related contracts whose specifications involve unclassified technical data releasable only to certified contractors;

c. Attend restricted gatherings where unclassified technical data are presented (i.e., symposia, program briefings, meetings designed to publicize advance requirements of the contracting agency, pre-solicitation, pre-bid, pre-proposal and pre-award conferences); and

d. Arrange unclassified visits directly with other certified U.S. or Canadian defense contractors or U.S. and Canadian military facilities. The type of directly arranged visit (DAV) authorized as a result of a JCP certification is discussed in **Appendix B**.

Rejection of DD Form 2345

If a certification is rejected, the contractor will be notified by registered mail and provided a copy of the rejection, stating the reasons for the rejection, explaining appeal rights, and advising the firm that it may appeal within thirty days.

Revision of DD Form 2345

Certified contractors should submit a revised DD Form 2345 whenever information previously furnished becomes outdated - if, for example, ownership, purpose of business, or the name of the company changes, or a new Data Custodian is designated by the certified contractor. Approval of a revision submittal starts a new five-year eligibility period for the certified contractor.

Renewal Notice

U.S. and Canadian contractors become certified on the date the JCO approves their certification. These contractors will be added to the Certified Contractor Access List (CCAL) and provided a renewal notice 120 days before their certification expires.

V. REQUESTS FOR UNCLASSIFIED TECHNICAL DATA

Requests For DoD-Controlled Technical Data

Certified contractors obtain DoD-controlled technical data by:

a. Requesting technical data needed to comply with the terms of a DoD contract directly from the DoD contracting authority or through the U.S. prime contractor (U.S. prime contractors are referred to **Appendix C** for guidelines regarding the transfer of DoD-controlled technical data to a certified Canadian subcontractor);

b. Requesting technical data needed to respond to Requests for Proposal (RFP) directly from the Program Manager;

c. Requesting technical data desired for other legitimate business purposes through a DoD library or other DoD technical data repository.

A copy of the JCO-approved DD Form 2345 should accompany all requests for DoD- controlled technical data. DD Form 2345 also should accompany any requests for Directly Arranged Visits (DAV), or attendance at a conference or symposia when unclassified technical data is being presented. The chart at **Figure 2** shows the review procedures that are in place to process requests for DoD-controlled technical data.

Requesting DoD-Controlled Technical Data From DTIC

Certified U.S. contractors that are registered with the Defense Technical Information Center (DTIC) should request DoD-controlled technical data directly from DTIC at the following address:

**Defense Technical Information Center
Attn: DTIC-FDRB, 8725 John J. Kingman Road, Suite 0944
Fort Belvoir VA 22060-6218**

Certified Canadian contractors should request DoD-controlled technical data, the distribution of which is administered by the DTIC, through the Directorate Scientific Information Service (DSIS) at the address shown on page 10.

REQUEST FOR DOD TECHNICAL DATA

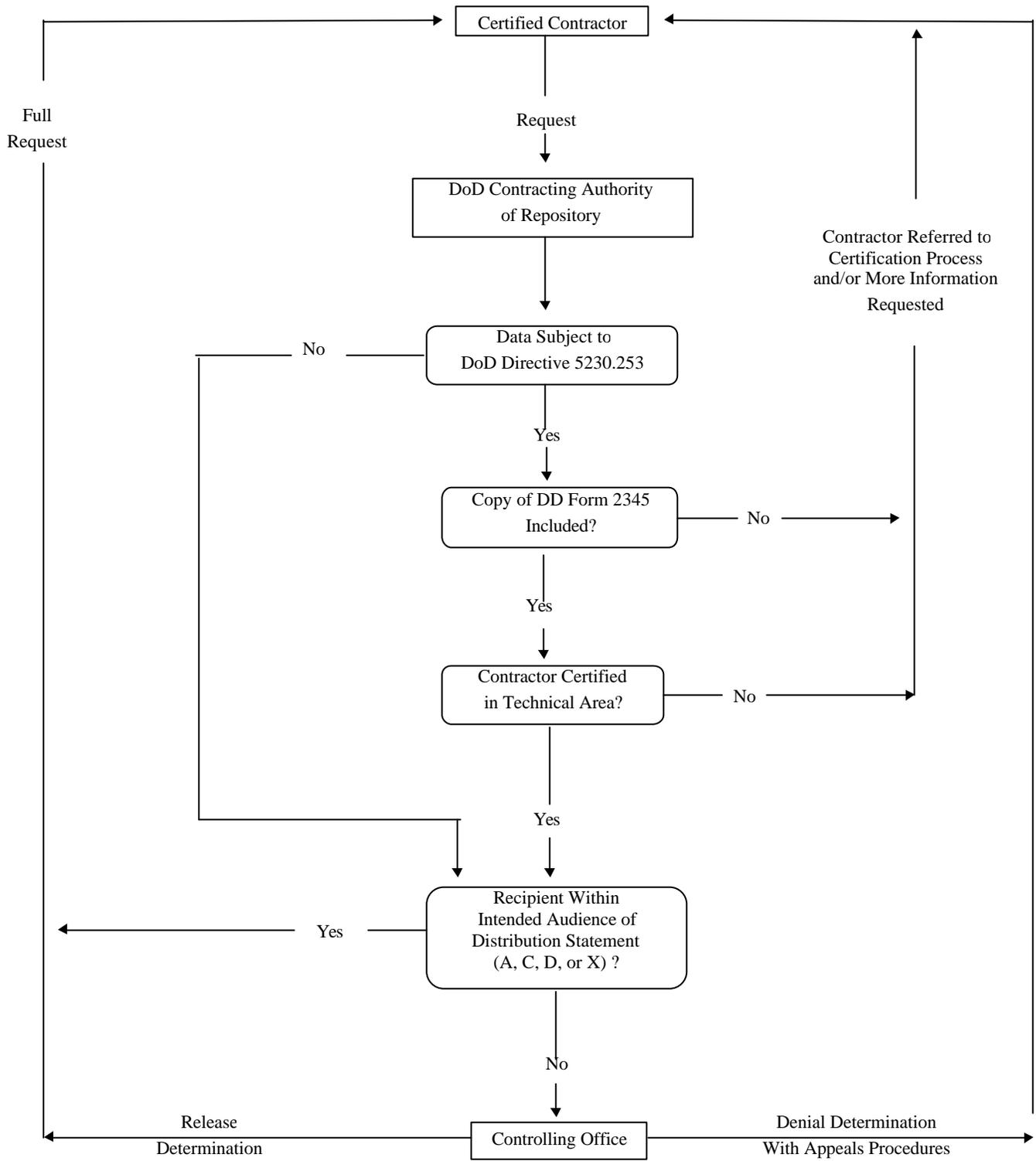


Figure 2

Requests For DND-Controlled Technical Data

Certified contractors obtain DND-controlled technical data by submitting a request to the International Programmes Division at the following address:

**Directorate-General of International and Industrial Programs
Attention: Team Leader - Americas
National Defence Headquarters
MGen George Pearkes Bldg.
Ottawa, Ontario K1A 0K2, CANADA**

A copy of the JCO-approved DD Form 2345 should accompany all requests for DND-controlled technical data. **Figure 3** shows the review procedures that are in place to process requests for DND-controlled technical data.

Requesting DND-Controlled Technical Data From DSIS

Certified Canadian contractors that are registered with the Directorate Scientific Information Services (DSIS) should request DND-controlled technical data, the distribution of which is administered by DSIS, directly from the DSIS at the following address:

**Customer Services Centre
Directorate Scientific Information Services (DSIS),
National Defence Headquarters
MGen Pearkes Bldg.
Ottawa, Ontario K1A 0K2, CANADA**

Certified U.S. contractors should request DSIS-administered unclassified technical data through the Defense Technical Information Center (DTIC) at the address shown on page 8.

Responding to PW&GSC Requests for Proposals and Requests for Quotes

Certified contractors should request unclassified Requests for Proposals (RFP) and Requests for Quotes (RFQ) that involve unclassified technical data directly from the PW&GSC procurement office.

REQUEST FOR DND TECHNICAL DATA

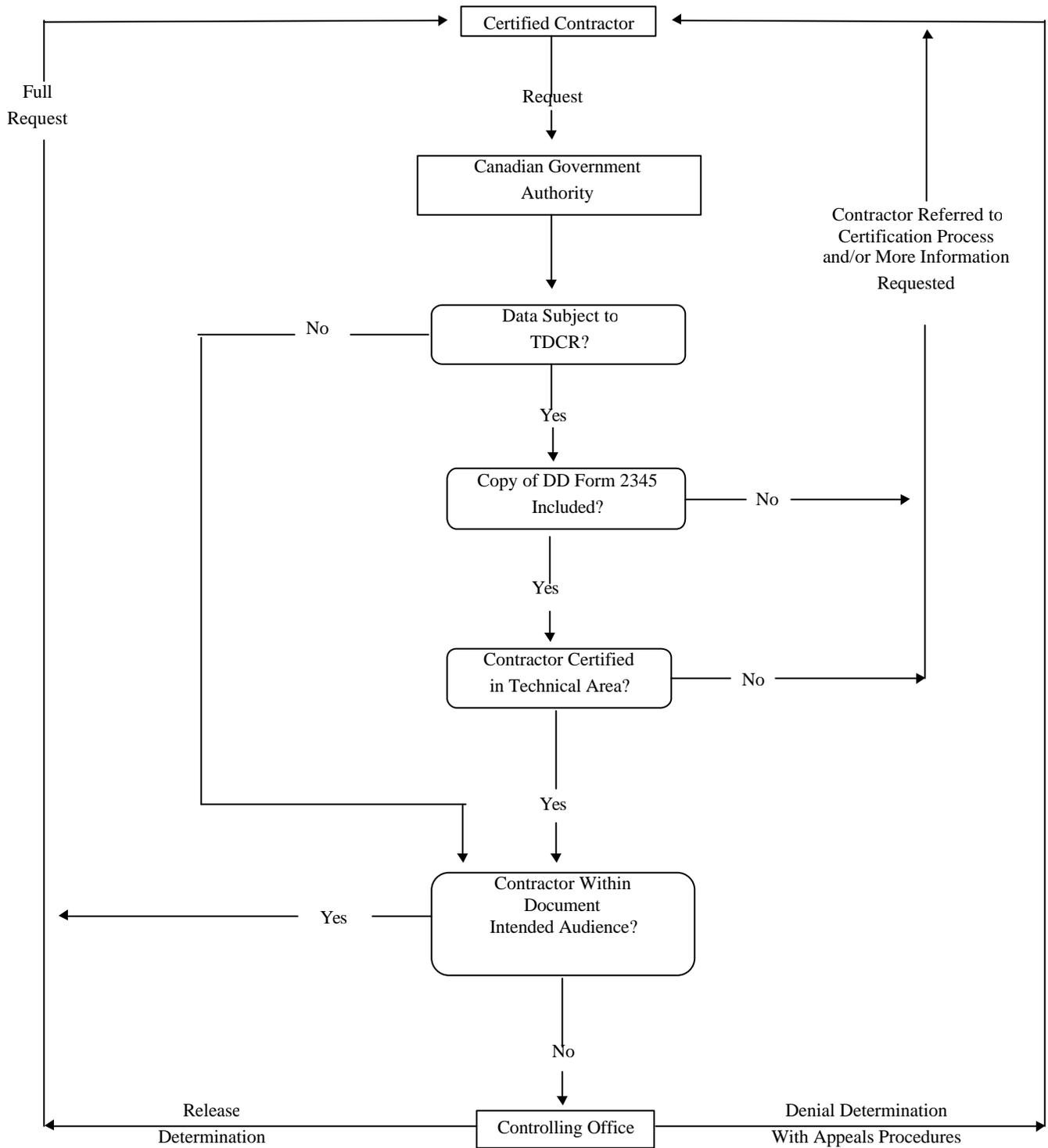


Figure 3

Denial of a Request for Unclassified Technical Data

When a U.S. or Canadian Government agency denies access to unclassified technical data, the certified contractor will be provided an explanation of applicable procedures to request a reconsideration of the denial, and, subject to security considerations, the reasons for denial.

VI. ACCESS BY FOREIGN PARENT OR FOREIGN SUBSIDIARY

Participation in the JCP is restricted to individuals and enterprises that are located in the U.S. or Canada. Where a parent-subsidiary relationship exists between two companies, and the parent or subsidiary is located in a country other than the U.S. or Canada, such parent or subsidiary and its employees are not authorized access to any DoD- or DND-controlled technical data which a certified U.S. or Canadian contractor has obtained under the provisions of the JCP without prior written government approval. This approval may be provided in the form of an export license obtained from the appropriate export control authority or dissemination authorization granted by the controlling office.

VII. DOCUMENT MARKINGS

Document markings will be applied to all documents released under the provisions of the JCP. These markings include those described below. An example of a DoD marking for a Distribution X document containing export-controlled technical data is shown at **Figure 4**.

EXAMPLE OF AN EXPORT CONTROL WARNING NOTICE & A DISTRIBUTION STATEMENT

<p>“Warning - This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C. Sec. 2751 et seq.) or Executive Order 12470. Violators of these export laws are subject to severe criminal penalties.”</p>	
<p>Distribution authorized to Government agencies and private individuals or enterprises eligible to obtain export-controlled technical data in accordance with regulations implementing 10 U.S.C. 140c. Date of determination: 20 April 1985. Other requests must be referred to Air Force Materiel Laboratory, Wright-Patterson AFB.”</p>	<p>“DESTRUCTION NOTICE - For classified documents follow the procedures in DoD 5220.22-M Industrial Security Manual, Section 11-11-79 or DoD 5200.1-R, Information Security Program Regulations, Chapter IX. For unclassified, limited document documents. Destroy by any methods That will prevent disclosure of Contents or Reconstruction of the Document.”</p>
<p>(Example of marking for a Distribution X Document Containing Export-Controlled Technical Data)</p>	
<p>Figure 4</p>	

Export Control Warning Notice

DoD documentation released pursuant to a JCO-approved certification will have a specific **EXPORT CONTROL WARNING NOTICE** and a **DISTRIBUTION STATEMENT** affixed to the front of the document. The Export Control Warning Notice is intended to remind recipients that the documentation was obtained under their Militarily Critical Technical Data Agreement (DD Form 2345) and may not be exported without an export license or other authorization, as applicable, unless permitted under the International Traffic in Arms Regulations (ITAR) exemptions outlined in **Appendix D**.

Documents that have an Export Warning Statement may be released outside the DoD only to companies and individuals who have made certifications in accordance with DoD Directive 5230.25, using DD Form 2345. Export controls are separate and distinct from Distribution Statements (see **Appendix A**).

DND documentation released pursuant to a JCO-approved certification will have a **DOCUMENT CONTROL WARNING NOTICE** affixed to the front of the document. The Document Control Warning Notice is intended to remind recipients that the documentation may not be further disseminated without the written authority of the DND. **Figure 5** shows the marking affixed to DND documentation.

DND DOCUMENT CONTROL WARNING NOTICE

<p>This document is furnished with the express understanding that:</p> <ul style="list-style-type: none">a. it is for the use of the recipient only in the performance of the requirement for which it was requested, and shall not be disseminated further without the written authority of the Department of National Defence, Canada;b. it shall be given adequate protection to prevent disclosure to unauthorized persons; andc. improper or unauthorized disclosure of this information may result in one or both of the following:<ul style="list-style-type: none">- loss of certification in both the United States and Canada; and- prosecution under section 26 of the <u>Defence Production Act</u>.

Figure 5

Destruction Notice

Documents containing unclassified technical data may also bear a notice to the effect that destruction of the document is authorized provided that the method selected will prevent disclosure of the content or reconstruction of the document. A record of destruction may be retained for audit purposes, if necessary.

Distribution Statements

Distribution statements are used by controlling offices to authorize secondary distribution to specific audiences. Controlling offices reserve the right to make determinations on all requests from outside the intended audience. The distribution statements are discussed in greater detail at **Appendix A**.

Contractor Imposed Distribution Statements

In addition to the above markings, contractors may apply markings to control the dissemination of technical data to which the U.S. and Canadian governments have limited rights.

VIII. CERTIFICATION VIOLATIONS

Violation of the certification agreement can result in one or more of the following:

- a. Loss of certification in both the U.S. and Canada. Once certification is lost, the contracting facility becomes ineligible to receive controlled technical data from both the U.S. and Canada;
- b. Liability to sanction (fine or imprisonment) under Part 127 of the ITAR for certified U.S. contractors;
- c. Liability to sanction (fine or imprisonment) under Section 26 of Canada's Defense Production Act for certified Canadian contractors;

IX. INQUIRIES AND CERTIFICATION VERIFICATION

Individuals or enterprises wishing to obtain more information regarding the U.S./Canada Joint Certification Program should contact the Joint Certification Office at 1-800-352-3572, or direct the inquiry to the following address:

**U.S./Canada Joint Certification Office
Defense Logistics Information Service
Federal Center
74 Washington Ave., North
Battle Creek, Michigan 49017-3084**

Government agencies wishing to have access to the JCP database of Certified companies should contact the Joint Certification Office at 1-800-352-3572, or (616) 961-7430. The JCP database of Certified companies can also be accessed via the World Wide Web
<http://www.dlis.dla.mil/jcp>

APPENDIX A

DOD DISTRIBUTION STATEMENTS

DoD Distribution Statements authorize secondary document dissemination organizations, such as DoD libraries and data repositories, to release documentation containing DoD-controlled technical data to other eligible recipients. All requests from outside the audience described in the statement are to be referred to the DoD controlling office for a release decision. DoD controlling offices make release determinations considering all applicable laws and regulations.

All contractors certified by the U.S.-Canada Joint Certification Office (JCO) are authorized access to DoD-controlled documents bearing Distribution Statements "A" or "X" as follows:

DISTRIBUTION STATEMENT "A"

"Approved for public release; distribution unlimited."

DISTRIBUTION STATEMENT "X"

"Distribution authorized to U.S Government agencies and private individuals or enterprises eligible to obtain export-controlled technical data in accordance with regulations implementing 10 U.S.C. 140c (date of determination). Other requests must be referred to (insert controlling DoD office)."

Certified contractors that are supporting U.S. Government agencies are eligible to receive unclassified documents bearing Distribution Statement "C":

DISTRIBUTION STATEMENT "C"

"Distribution authorized to U.S. Government agencies and their contractors (reason for restriction) (date of determination). Other requests for this document shall be referred to (insert controlling DoD office)."

If there is a contract with DoD, the certified contractors are eligible to receive unclassified documents bearing Distribution Statement "D":

DISTRIBUTION STATEMENT "D"

"Distribution authorized to the Department of Defense and DoD contractors only (reason for restriction) (date of determination). Other requests shall be referred to (insert controlling DoD office)."

However, if the reason for restriction in Distribution Statement "C" or "D" specifies that the document contains "foreign government" or "company proprietary" information, written consent must be obtained from the owners of the information before release to a certified contractor.

Distribution to anyone outside the U.S. Government of unclassified technical documents bearing the following Distribution Statements requires the permission of the DoD controlling office:

DISTRIBUTION STATEMENT "B"

"Distribution authorized to U.S. Government agencies only (reason for restriction) (date of determination). Other requests for this document shall be referred to (insert controlling DoD office)."

DISTRIBUTION STATEMENT "E"

"Distribution authorized to the DoD Components only (reason for restriction) (date of determination). Other requests shall be referred to (insert controlling DoD office)."

DISTRIBUTION STATEMENT "F"

"Further dissemination only as directed by (insert controlling DoD office) (date of determination) or higher DoD authority."

The Table at **Figure 7** shows the intended audience for Distribution Statements A, C, D, and X. The guidelines provided in the Table allow secondary distribution organizations to serve the broadest audience possible without the need to consult controlling offices for instructions.

INTENDED AUDIENCE	DOCUMENTATION DISTRIBUTION STATEMENTS
Certified contractors	A, X
Certified contractors doing business with the U.S. Government	A, C, X
Certified contractors doing business with the Department of Defense	A, C, D, X

Figure 7

APPENDIX B

DIRECTLY ARRANGED VISITS (DAV)

Background

In 1985, the United States and Canada signed a Memorandum of Understanding (MOU) that established the U.S.-Canada Joint Certification Program. As stated in the MOU's "Joint Terms of Reference for the Joint Certification Program", the program was established "to certify contractors of each country for access, on an equally favorable basis, to unclassified technical data disclosing critical technology". This information is controlled in the U.S. by DoD Directive 5230.25 and, in Canada, by the Technical Data Control Regulations (TDCR). Under each Nations' laws, the U.S. Department of Defense and Canada's Department of National Defence may withhold such technical data from public disclosure.

To ensure that the goals of the 1985 MOU are realized, the United States and Canada have agreed that the certification process can be used to facilitate visits that involve access to **UNCLASSIFIED** technical data. The procedures described in this document have been developed to permit **DIRECTLY ARRANGED VISITS** (DAV) by:

a. Canadian Government officials and Certified Canadian contractors to DoD military installations and DoD contractor facilities; and,

b. United States Government officials and Certified United States contractors to Canadian military installations and Canadian contractor facilities.

DAV Scope

The following are activities intended to be covered through the Directly Arranged Visit process:

a. procurement activities such as unclassified pre-solicitation conferences, discussions related to unclassified solicitations, and collection of procurement unclassified documents (RFQ's, RFP's, bid sets, etc);

b. performance of an UNCLASSIFIED contract;

c. scientific research, in a professional capacity, in support of unclassified U.S. or Canadian national defense initiatives; and;

d. attendance at restricted meetings, conferences, symposia, program briefings, where technical data governed by DoD Directive 5230.25 or Canadian Technical Data Control Regulations will be presented, **OR**, the event is being held in an UNCLASSIFIED access controlled area.

DAV Restrictions

A DAV does not apply to the following:

- a. uncertified U.S. or Canadian contractors;
- b. CLASSIFIED visits, where confirmation of the visitors' security clearance is required; or,
- c. unsolicited marketing visits.

DAV Conditions

A Directly Arranged Visit (DAV), related to the release of information controlled in the U.S. by DoD Directive 5230.25, or in Canada by the Technical Data Control Regulations (TDCR), is permitted when the following two conditions are satisfied.

a. First condition:

- 1. There is a valid license covering the export of the data; or
- 2. The export or release is permitted under the Canadian exemption on Part 126.5 of the International Traffic in Arms Regulations (ITAR) (see Canadian Exemption in Appendix D to this document); or
- 3. The export or release is covered by the general exemptions in Part 125.4 of the ITAR (see General Exemptions in Appendix D to this document); or
- 4. The export or release qualifies for a General License under the export Administration Regulations (EAR); **and**

b. Second condition:

- 1. The distribution statement applied to the data pursuant to DoD Directive 5230.24 permits release (see DoD Distribution Statements in Appendix A to this document); or
- 2. The originator or Government controlling office authorizes release.

DAV Procedures

Requesting a DAV

It is the responsibility of the host facility (military or contractor) to notify potential visitors if a visit meets the conditions for a DAV described above, or if a formal CLASSIFIED Visit Clearance Request must be submitted through government channels.

Certified contractors wishing to initiate an UNCLASSIFIED visit to a military installation or certified contractor facility should make arrangements directly with the officials they wish to visit. In addition, arrangements should be approved through the security office of the facility to be visited.

Information To Be Included In The DAV Request

The following information should be included when requesting approval for a DAV to a military or contractor facility:

a. The name(s), office symbol(s), phone number(s), location(s) to be visited, date and time of the visit and the point(s) of contact you plan to see during the visit;

b. A letter on company letterhead from an Officer of the company listing the names of all visitors and certifying they are U.S. or Canadian citizens or intending citizens and are employees of the company; and

c. A copy of your individual or your company's approved DD 2345.

The host facility may also require that proof of U.S. or Canadian citizenship be submitted with the visit request, in the form of a passport number; the inside page of the passport; or, some other document that indicates citizenship.

Note:

A DAV Request may be submitted for a specific visit, or, for a period of time related to recurring visits on a specific contract or project. Although the recurring visit may be approved, it is still the responsibility of the visitor to notify the location to be visited, in writing, at least 72 hours in advance of their arrival.

Types of DAV Requests

DAV to DoD Contractor Facilities

Government officials and certified contractors are authorized to make unclassified visit arrangements directly with the DoD contractor concerned when release of data is governed by DoD Directive 5230.25.

DAV to DoD Military Facilities

Government officials and certified contractors wishing to initiate an unclassified visit to a U.S. military facility should make arrangements directly with the DoD officials they wish to visit and the security office at the concerned facility. A DAV to DoD facilities may be conducted for the purposes of:

- a. collecting or discussing unclassified solicitations;
- b. in furtherance of procurement activities related to unclassified solicitations;
- c. to perform on an unclassified contract; or
- d. to attend conferences/meetings/symposia.

DAV to Canadian Contractor Facilities

Government officials and certified contractors are authorized to make unclassified visit arrangements directly with the Canadian contractor concerned when release of the data is governed by the Technical Data Control Regulations.

DAV to DND Military Facilities

Government officials and certified contractors wishing to initiate an unclassified visit to a Canadian military facility should make arrangements directly with the DND officials they wish to visit and confirm that it complies with any local access requirements applicable to the DND facility being visited.

A DAV to a DND facility may be conducted for the purposes of:

- a. collecting or discussing unclassified solicitations;
- b. in furtherance of a procurement activity related to unclassified solicitations;
- c. to perform an unclassified contract; or
- d. to attend conferences/meetings/symposia.

DAV To Attend Conferences/Meetings/Symposia

Government officials and certified contractors will normally be admitted to conferences/meetings/symposia where technical data governed by DoD Directive 5230.25 or Technical Data Control Regulations are presented. However, if such an event contains information that does not fall under the ITAR exemption for Canada, the sponsor of the event should obtain approval from the appropriate DoD authority to release the information in question to Canadian participants, or, if release approval is denied, exclude Canadians from participation.

Sample guidelines for announcements for conferences/meetings/symposia where technical data governed by DoD Directive 5230.25 or Technical Data Control Regulations are presented are included in this document.

Note:

By regulation, the host agency head or facility commander retains final approval authority for any visit and may deny it at any time for security or operational purposes.

Contacts

Inquiries concerning application of the DAV process should be directed to:

*U.S.-Canada Joint Certification Office
Defense Logistics Information Service
Federal Center
74 Washington Avenue North
Battle Creek, Michigan 49017-3084
Telephone 1-(800) 352-3572.*

Additional assistance may also be obtained from the following organizations:

U.S.A.

Department of the Navy
Navy International Programs Office
(202) 764-2378

Department of the Army
Deputy Chief of Staff for Intelligence
(703) 601-1571

Department of the Air Force
Foreign Disclosure and Technology Transfer Division
(703) 588-8809

CANADA

Public Works and Government Services Canada
Canadian International and Industrial Security Directorate
(819) 956-3681

Sample Guidelines

For

Restricted Conferences/Meetings/Workshops

Examples of statements are enclosed and should be used in announcements for Restricted and Closed sessions of conferences, meetings, or workshops involving the release of technical data controlled by the requirements of DoD Directive 5230.25.

Example #1

GUIDELINES FOR ATTENDANCE AT A RESTRICTED EVENT

Attendance Restrictions

The material to be presented and discussed at this **[conference/meeting/symposia]** may involve technical data that are governed by the U.S. Department of Defense (DoD) Directive 5230.25, November 6, 1984, "Withholding of Unclassified Technical Data from Public Disclosure". Consequently, attendance is limited to U.S. and Canadian citizens and intending citizens (formerly "resident aliens") of either country who are registered with the U.S./Canada Joint Certification Office (JCO).

Attendance Requirements

The attendance requirements for this restricted session comply with DoD Directive 5230.25. This directive permits individuals or enterprises that are certified pursuant to DoD Directive 5230.25 to obtain access to unclassified technical data with military or space application in the possession of, or under the control of, the Department of Defense, provided the information is deemed releasable by a U.S. disclosure authority.

Individuals wishing to attend this session should verify with their employer whether a certification number has been assigned to their facility by the JCO. When assigned, such certification number extends to all eligible personnel employed at the certified facility. If no certification is on file, either the individual or the employer, as appropriate, may request a certification by completing DD Form 2345, "Military Critical Technical Data Agreement," and submitting the form to the U.S./Canada Joint Certification Office, Defense Logistics Information Service, Federal Center, Battle Creek, Michigan 49017-3084. Specific instructions for completion and submission of the form are on its reverse side. Requests for DD Form 2345 should be directed to **[identify an official/office designation by the authorizing DoD organization]** or the JCO. Inquiries concerning application approval should be directed to the JCO at 1-800-352-3572.

If your facility is currently certified under the Military Critical Technical Data Agreement, you are not required to recertify. Simply enter the certification number assigned by the JCO in the appropriate section of the registration form. You must bring a copy of the accepted certification form and a picture identification (drivers license, passport, corporate identification) to the **[name of conference/meeting/symposia]**. No other forms or identification will allow admittance into the restricted session.

Note:

Military personnel and civilian employees of the U.S. or Canadian government are excluded from the certification requirement, but must show government identification to be admitted to the restricted session.

Foreign Participation

The U.S. Department of Defense will sponsor attendance by foreign government and industry personnel when that attendance advances intergovernmental programs. Foreign nationals wishing to attend this ***[name of conference/meeting/symposia]*** must ask their embassies in Washington, D.C. to submit a request to attend the restricted session to the Defense Intelligence Agency or the military department sponsor following established DoD visit request procedures. An export authorization may be required. The visit request must indicate sponsorship by the prospective attendee's government and contain the prescribed end-use and non-transfer assurances. Canadian citizens are excluded from this requirement provided the above Attendance Requirements are met.

Note:

Anyone not complying with the preceding attendance requirements will not be admitted to the restricted session.

Example #2

SUGGESTED ATTENDANCE GUIDELINES FOR CLOSED SESSIONS

The attendance requirements for the closed sessions comply with Department of Defense (DoD) Directive 5230.25, "Withholding of Unclassified Technical Data From Public Disclosure." U.S. and Canadian citizens and intending citizens (formerly "resident aliens") of either country wishing to attend the closed sessions must complete DD Form 2345. Upon completion, the form should be forwarded to the U.S.-Canada Joint Certification Office (JCO) at the address shown on the reverse of the form.

Admission to the closed sessions requires U.S. and Canadian attendees to provide:

- a. Certification of citizenship status (i.e., passport, "green card," certification by company official on company letterhead, etc.),
- b. Personal photographic identification (i.e., driver's license, passport, corporate I.D., etc.),
- c. Evidence of employment status (i.e., corporate I.D., business card, certification by company official on company letterhead, etc.), plus
- d. A copy of an approved DD Form 2345 for the individual or a copy of the approved DD Form 2345 for the individual's employer.

Persons who are not citizens or resident aliens of the United States or Canada must submit a visit request to the Foreign Liaison Office of the U.S. ***[Defense Intelligence Agency, Department of the Air Force/Department of the Army/Department of the Navy]*** through their embassy in Washington, D.C. DoD may authorize the attendance of certain foreign nationals when their attendance advances the interests of an international military agreement or understanding.

Anyone not complying with the preceding attendance requirements will not be admitted to the closed sessions.

Note:

The certification requirements do not apply to civilian employees and military personnel of the U.S. and Canadian governments. To obtain a copy of DD Form 2345 contact the JCO at 1-800-352- 3572. Questions about how to complete DD Form 2345 or whether your company has already completed DD Form 2345 should be directed to the JCO.

APPENDIX C

GUIDELINES FOR CONTRACTOR EXPORT OF UNCLASSIFIED TECHNICAL DATA

U.S. Prime Contractor to Canadian Subcontractor

Canadian contractors who are subcontractors to a U.S. prime contractor on a DoD contract may request unclassified technical data directly from the U.S. prime contractor. However, if the unclassified technical data are not releasable to a Canadian subcontractor in accordance with U.S. export control laws and regulations and/or DoD document distribution statements, the U.S. prime should inform the Canadian subcontractor that it should request the technical data directly from the DoD contracting authority. If it so desires, the DoD contracting authority, in accordance with the ITAR, may direct the U.S. prime contractor to release the technical data to the Canadian subcontractor.

U.S. prime contractors may retransmit DoD unclassified technical data to Canadian subcontractors to use for government purposes provided all of the following conditions are met:

- a. The exporter has determined that the Canadian recipient is qualified under the Distribution Statements found in DoD Directive 5230.24 (see **Appendix A**).
- b. The Canadian recipient has been certified by the Joint Certification Office in Battle Creek.
- c. The exporter has determined that the technical data involved does not contain detailed design or manufacturing data, to include unique hardware or software processing technology, or there is an existing Technical Assistance or Manufacturing License Agreement covering the specific data.

The exporter also must file a Shipper's Export Declaration (Department of Commerce Form 7525-V) with the District Director of Customs at the port of exit. The exporter must certify that the export is exempt from the licensing requirements by writing "22 CFR " (with the applicable section of ITAR) on the shipper's export declaration. A copy of each declaration must be mailed immediately by the exporter to the Office of Defense Trade Controls, Department of State. An export declaration is not required, however, if the shipment is pursuant to a U.S. Government sponsored program. When the technical data are subject to a case-by-case review before release, the exporter also should provide a brief summary of the data transferred to include its intended end-use and end-user to the Office of the

Director, Defense Technology Security Administration ATTN: Licensing Directorate, Department of Defense. This will allow the Licensing Directorate to record the transaction in FORDTIS (Foreign Disclosure Technical Information System) database.

If for any reason, a U.S. prime contractor is not sure whether certain unclassified technical data may be exported to Canada without a license, it should obtain an advisory opinion from the Office of Defense Trade Controls, Department of State.

Canadian Prime Contractor to U.S. Subcontractor

U.S. contractors who are subcontractors to a Canadian prime contractor on a DND contract may request unclassified technical data directly from the PW&GSC contracting authority or they may obtain it through the Canadian prime contractor.

Canadian prime contractors may transfer DND-controlled unclassified technical data to U.S. subcontractors to support a DND contract provided the following conditions are satisfied:

- a. The technical data are governed by the TDCR;
- b. The U.S. recipient has been certified by the Joint Certification Office;
- c. The intended use of the technical data falls within the scope of the business activity as stated on the subcontractor's certification; and
- d. Written consent is obtained from the DND controlling office prior to releasing technical data that contain third party information, such as foreign government, company proprietary, or limited rights information.

A Canadian prime contractor may request assistance from the DND controlling office in making a release determination.

APPENDIX D

LICENSING EXEMPTIONS

Canadian Exemption Under U.S. Export Control Law

In general, unclassified munitions list equipment and technical data may be exported to Canada without a license or other authorization for end-use in Canada or return to the United States with the exception of the articles and technical data listed in Part 126.5 of the International Traffic in Arms Regulations (ITAR), issued by the Department of State.

The International Traffic in Arms Regulations can be found at the following websites:

<http://www.pmdtc.org/itar2>

<http://www.siaed.org/indexafree.html>

U.S. Exemption Under Canadian Export Control Law

Under Canadian law, export of DND-controlled technical data that are subject to the TDCR to certified U.S. contractors does not require an export permit or license from the Export Control Division at the Department of Foreign Affairs and International Trade Canada.

APPENDIX E

DEFINITIONS

Certified Contractor. A private individual or enterprise who is located in the United States or Canada and who has been approved for access to export-controlled technical data in the possession of, or under the control of DoD or DND. Access to DoD-controlled technical data is granted under the authority of DoD Directive 5230.25, and access to DND-controlled technical data is granted under the authority of Canada's Technical Data Control Regulations (TDCR).

Controlling Office. The DoD or DND activity that sponsors the work that generates the technical data or the office that receives the technical data on behalf of a Government agency and has the responsibility for distributing the data to eligible recipients.

Critical Technology. Technologies that consist of:

- a. arrays of design and manufacturing know-how (including technical data);
- b. keystone manufacturing, inspection, and test equipment;
- c. keystone materials; and
- d. goods accompanied by sophisticated operation, application, or maintenance know-how that would make a significant contribution to the military potential of any country or combination of countries and that may prove detrimental to the security of the United States or Canada (also referred to as militarily critical technology).

Export Administration Regulations (EAR). The EAR, which is administered by the Bureau of Export Administration, U.S. Department of Commerce, implements the Export Administration Act of 1979. The EAR controls export of dual use items (materials with both civilian and military uses) specified on the Commodity Control List and technical data as defined in the regulations.

Intending Citizen (U.S.). An intending citizen is an alien who falls into one of the following four categories:

- a. Permanent residents;
- b. Temporary residents (individuals who have gone through or are in the process of going through the amnesty legalization program);
- c. Individuals admitted as refugees; or
- d. Individuals granted asylum.

International Traffic in Arms Regulations (ITAR). The ITAR, which is administered by the Office of Defense Trade Controls, U.S. Department of State, implements the U.S. Arms Export Control Act. The ITAR controls export of defense articles specified on the U.S. Munitions List and technical data directly related to them.

Permanent Resident (Canada). A permanent resident of Canada means a person who:

- a. has been lawfully admitted to Canada to establish permanent residence;
- b. has not become a Canadian citizen; and
- c. has not ceased to qualify as a permanent resident under the Immigration Act of Canada.

Technical Data with Military or Space Application (also known as "Technical Data"). Any blueprints, drawings, plans, instructions, computer software and documentation, or other technical information that can be used or be adapted for use to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment.

APPENDIX F

ABBREVIATIONS

CCAL	Certified Contractor Access List
DAV	Directly Arranged Visit
DD	Department of Defense
DD/DPSA	Defense Development/Defense Production Sharing Arrangements Steering Committee
DGIP	Directorate General International Programmes
DISCO	Defense Investigative Service Clearance Office
DLIS	Defense Logistics Information Service
DND	Department of National Defence
DoD	Department of Defense
DSIS	Directorate Scientific Information Services
PW&GSC	Public Works and Government Services Canada
DTIC	Defense Technical Information Center
EAR	Export Administration Regulations
FORDTIS	Foreign Disclosure Technical Information System
ITAR	International Traffic in Arms Regulations
JCO	Joint Certification Office
JCP	Joint Certification Program
MAS	Ministere Approvisionnement et Services
MLA	Manufacturing License Agreement
MOU	Memorandum of Understanding
NORAD	North American Aerospace Defense Command
RFP	Request for Proposal
RFQ	Request for Quote
STI	Scientific and Technical Information
TAA	Technical Assistance Agreement
TDCR	Technical Data Control Regulations
U.S.	United States

APPENDIX G

REFERENCES

1. Title 10, U.S.C., section 130, as added by PL 98-94 "DoD Authorization Act of 1984," section 1217, September 24, 1983.
2. Defense Production Act, 1962, as amended.
3. Memorandum of Understanding (MOU) between the United States and Canada Concerning Strategic Technology Exchange, 13 December 1985.
4. Joint Terms of Reference for the United States-Canada Joint Certification Program, 13 May 1986 (appended to the MOU).
5. International Traffic in Arms Regulations (ITAR), 22 C.F.R. 120-130.
6. Technical Data Control Regulations (TDCR), SOR/86-345, 20 March 1986.
7. DoD Directive 2040.2, International Transfers of Technology, Goods, Services, and Munitions, January 17, 1984.
8. DoD Directive 5230.24, Distribution Statements on Technical Documents
9. DoD Directive 5230.25, Withholding of Unclassified Technical Data from Public Disclosure, November 6, 1984
10. United States-Canada Certification Program, Department of Public Works and Government Services Canada Supply Policy Manual Directive 3158.