

**SUPPORTING STATEMENT FOR PAPERWORK
REDUCTION ACT SUBMISSIONS**

**Prior Notification (Form DS-6002)
OMB No. 1405-0171**

A. Justification

1. The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with §§ 38-40 of the Arms Export Control Act (AECA) [22 U.S.C. 2778-2780] and the International Traffic in Arms Regulations (ITAR)[(22 C.F.R. Parts 120-130)], has the primary missions of (a) taking final action on license and agreement applications for defense trade exports and (b) handling matters related to defense trade compliance, enforcement, and reporting. By law, executive orders, and delegations of authority, DDTC is charged with controlling the export and temporary import of defense articles and defense services, as specified in the U.S. Munitions List. Further, as required by Section 38 of the AECA, DDTC processes the registration of some 5,000 manufacturers and exporters of defense articles and defense services and persons brokering commercial arms sales.

In carrying out its responsibilities, DDTC reviews munitions license and agreement applications to determine whether to approve them. DDTC considers, *inter alia*:

- Whether the proposed transactions would further U.S. foreign policy objectives, national security interests, and world peace;
- The eligibility of parties (*i.e.*, applicants, consignees, end-users) to participate in U.S. defense trade; and
- The appropriate end-use of defense articles and defense services for which U. S. Government approval is sought.

Under 22 CFR 126.8(a)(2), DDTC must be notified in writing at least 30 days in advance of any proposal or presentation concerning the sale of significant military equipment where certain conditions are met. The notification should be submitted using form DS-6002.

Copies of the relevant ITAR provision (Sections 126.8) and section 38 of the AECA are attached.

2. DDTC reviews the information to analyze the proposal or presentation concerning the sale of significant military equipment whenever the sale is \$14M or more; the equipment is intended for use by the armed forces of any foreign country other than a member of NATO, Australia, New Zealand, Japan or South Korea; and the identical significant military equipment has been previously licensed for permanent export or approved for sale under the Foreign Military Sales Program.

3. Respondents will submit the information using the form DS-6002 and using the U.S. postal service. DDTC is currently improving the electronic process for approving export license and amendment requests. Implementation of the electronic process for export licensing has been behind schedule. The electronic version of the "Prior Notification" submission under 22 CFR §126.8(a)(2) is a priority. The goal is to make it possible for this information collection to be submitted electronically. DDTC estimates by December 2010 that this information collection will be electronic.

4. Similar information is not already available because this information is business proprietary. Thus, there is no duplication of this information.

5. Defense trade laws and regulations, designed to safeguard U.S. foreign policy and national security interests and to further world peace, are applicable equally to large and small businesses or entities. Submitting a "Prior Notification" applies only to small businesses and small entities when they are "in the business" of defense trade. Burdens have been minimized through development of a clear, concise form that seeks only information actually needed by DDTC.

6. Absent providing a procedure for the collection of this information, the Department would not have a process of obtaining prior notifications required by 22 CFR 126.8(a)(2).

7. Respondents are required to maintain records for longer than three years. The ITAR requires maintenance of records for a period of five years from the expiration of the license or written approval. The five-year time period corresponds to the criminal statute of limitations for violations of the ITAR.

8. A public notice giving the public 60 days to comment on this information collection was published in the Federal Register on June 2, 2009. 74 Federal

Register 26263 is attached. One comment was received that urged the activation of the electronic form as soon as possible.

9. Not applicable. No payment or gift has been or will be provided to any respondent.

10. Respondents are engaged in the business of exporting defense articles and/or defense services, have registered with PM/DDTC pursuant to the ITAR, and correspondingly use the ITAR in the regular course of business. Thus, respondents would be familiar with Section 126.10 of the ITAR, which describes the protections given to respondents' information as summarized below:

- Subchapter R of 22 CFR contains regulations on the availability to the public of information and records of the Department of State. The provisions of subchapter R apply to such disclosures by the DDTC.
- Certain information of a proprietary nature required by the Department of State in connection with the licensing process may generally not be disclosed to the public unless certain determinations relating to the national interest are made in accordance with §38(e) of the Arms Export Control Act (22 U.S.C. § 2778) and, by reference, certain procedures outlined in the Export Administration Act.
- Confidential business information required under part 130 of the ITAR (*re* political contributions, fees, and commissions) is generally protected from public disclosure.
- Information may be disclosed to foreign governments for law enforcement purposes or in the context of multilateral export regimes.

11. Not applicable. The Department of State is not soliciting any information regarding questions of a sensitive nature or matters commonly considered private.

12. The Department of State has reason to believe that the information requested via Form DS-6002 for "Prior Notification" is already available to respondents as an aspect of their customary and usual business practices. An estimated 47 annual responses are expected from 18 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately 1 hour. Consequently, it can be reasonably assumed that the cost to industry in terms of money, time, and other resources is minimal. The estimated annual hour burden is 47 hours.

13. There are no anticipated additional costs to respondents.
14. The annual operational budget for DDTC is approximately \$13 million plus \$11.9 million from the registration fees, totaling \$24.9 million for FY08. This figure includes all costs incurred by DDTC and includes equipment, overhead, printing, and support staff employed for processing this information. DDTC received about 47 prior notifications during FY08. Processing those reports accounts for approximately .011% of PM/DDTC's budget. The estimated annualized cost to the Federal government is \$2,739.
15. Item 13(a) of OMB Form 83-I, "Number of Respondents," has been adjusted from 15 to 18. Item 13(c), "Total Annual Responses," has been adjusted from 15 to 47. Item 13(c) "Total Annual Hours Requested" has been adjusted from 15 to 47. These numbers reflect what was actually received in FY08.
16. Not applicable. Publication of the relevant information is not anticipated.
17. Not applicable. There is no request not to display the OMB expiration date.
18. Not applicable. The Department of State is not seeking any exception to the statement, "Certification for Paperwork Reduction Act Submissions," of OMB 83-I.

B. Collections of Information Employing Statistical Methods

Items 1-5 are not applicable. This collection of information does not employ statistical methods.