

SUPPORTING STATEMENT
U.S. Department of Commerce
Bureau of Industry and Security
License Transfer and Duplicate License Services
OMB Control No. 0694- 0126

A. Justification

This is a request to extend the Office of Management and Budget approval.

1. Explain the circumstances that make the collection of information necessary.

This information collection is needed to provide two services to exporters under the Export Administration Regulations (EAR). The specific responsibilities are described more fully in the answer to Question 2.

Section 15(b) of the **Export Administration Act (EAA)** of 1979, as amended, authorizes the President and the Secretary of Commerce to issue regulations to implement the EAA including those provisions authorizing the control of exports of U.S. goods and technology to all foreign destinations, as necessary for the purpose of national security, foreign policy and short supply, and the provision prohibiting U.S. persons from participating in certain foreign boycotts. Export control authority has been assigned directly to the Secretary of Commerce by the EAA and delegated by the President to the Secretary of Commerce. This authority is administered by the Bureau of Industry and Security through the **Export Administration Regulations (EAR)**. The EAA is not permanent legislation, and when it has lapsed due to the failure to enact a timely extension, **Executive Orders** under the **International Emergency Economic Powers Act (IEEPA)** have directed and authorized the continuation in force of the EAR.

Section 750.9 of the EAR outlines the process for obtaining a duplicate license when a license is lost or destroyed. Section 750.10 of the EAR explains the procedure for transfer of ownership of validated export licenses. Both activities are services provided after the license approval process. The supporting statement will use the terms 'transfer' and 'duplicate' to distinguish the unique activities of each. When no distinction is made, the response supports both activities.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Transfer: Export licenses approved by BIS are granted to only those persons who certify on the application that they are subject to the jurisdiction of the United States and that they will be

strictly accountable for the use of the license in accordance with the Export Administration Regulations (EAR). Certain circumstances such as company mergers, company takeovers, etc., necessitate the transfer of an active export license from one party to another. When a licensee transfers an unexpired license to another party, there must be assurances that the other party, the transferee, will also be accountable for the proper use of the license. The required information collected from both parties provides assurances that the balance of the shipments will not be diverted or used for purposes contrary to the authorized use of the approved license.

When requesting the transfer of a license, the original licensee must submit a letter requesting a transfer of a license or licenses containing the following information:

- (1) The reason for the requested transfer;
- (2) A list of the outstanding license numbers or a statement that all outstanding licenses in the name of the licensee are to be transferred, and the total number of such outstanding licenses;
- (3) A list of all license applications for export to be transferred that are pending with BIS, identifying the Application Control Number for each, or other information that will assist in identifying the pending license applications;
- (4) Name and address of the person you intend to transfer the licenses and license applications to;
- (5) The facts necessitating transfer;
- (6) A statement as to whether or not any consideration has been, or will be paid for the transfer; and,
- (7) Identification by name of the legal document or other authority by which the new firm name is legally established, the new corporation or firm created, or the assets transferred and showing the effective date of such document and the state where filed or recorded.

In addition to the above, the person to whom the license holder wishes to transfer the license(s) must provide a signed letter, which must be submitted with the request, containing the following:

- (1) That the transferee is a principal party in interest in the transaction covered by the license, or is acting as agent for a principal party in interest;
- (2) That the transferee is subject to the jurisdiction of the United States;
- (3) That the transferee assumes all powers and responsibilities under the license for the control of the shipment of the items out of the United States;

- (4) Whether any consideration has been, has not been, or will be paid for the transfer;
- (5) The name and address of the foreign principal in instances where the transferee will make the export as an agent on behalf of a foreign principal; and
- (6) If the license is to be transferred to a subsidiary or firm, or if transferred to the transferee all, or a substantial portion, of all assets or business, the transferee must certify that the legal authority changing the exporter imposes on the transferee the responsibility to accept and fulfill the obligations of the transferor under the transactions covered by the license; and
- (7) The following certification:

The undersigned hereby certifies that, if license number(s) _____ is (are) transferred in accordance with my (our) request, any and all documents evidencing the order covered by this (these) license(s) will be retained and made available upon request in compliance with the recordkeeping provisions contained in Part 762 of the Export Administration Regulations. The undersigned further certifies compliance with all requirements of the export Administration Regulations regarding these licenses.

Unless instructed otherwise by BIS, the license holder must retain the license(s) pending notification by BIS of the action taken. If the request is approved, the holder must forward the license(s) to the transferee and the validated letter received from BIS authorizing the transfer. If the transfer request is not approved, the license(s) must either be returned to BIS or used by the holder, if the holder so chooses and has retained the legal and operational capacity to meet the responsibilities imposed by the license(s). If the initial request is returned by BIS for additional information, after obtaining the necessary information the holder may resubmit the request.

This information must be collected to establish the legal responsibility for the export of controlled goods and technology. The BIS computer files and other records contain data on all approved licenses. In instances of alleged violations, the records are searched to assure that if transfers have been made, the proper procedures have been followed. Unauthorized shipments are referred to enforcement authorities for investigation.

Duplicate: If an export license is lost or destroyed, the licensee may obtain a duplicate license by submitting a letter to BIS, stating that License Number _____ has been lost or destroyed, stating the circumstances under which it was lost or destroyed, and stating that if the original license is found, either the original or the duplicate will be returned to BIS by the licensee. The same recordkeeping requirements that applied to the original license apply to the duplicate license.

This information is used by BIS to confirm the existence of the original license to justify the issuance of a duplicate license. It also reminds the licensee of the obligation to return either the original or the duplicate if the original is found.

The Section 515 Information Quality Guidelines apply to this information collection and comply with all applicable information quality guidelines, i.e., OMB, Department of Commerce, and specific operating unit guidelines.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Transfer: When a request to transfer a license or licenses is received, BIS reviews the proposed transfer, and if approved, submits a validated letter authorizing the transfer of ownership.

Duplicate: When a request for a duplicate license is received, the original license is found in BIS's Export Control Automated Support System (ECASS) and the duplicate is then issued by ECASS. The request for a duplicate license is a written submission; the output is electronic.

4. Describe efforts to identify duplication.

This information is not duplicated elsewhere. This is a special collection of information that is initiated only by the licensee. This information is not available from any source other than from the respondent.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The burden cannot be minimized for small businesses, or other small entities. Only complete information, as required, will assure compliance with the EAA and export regulations.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

This collection is necessary to provide a service to exporters. If the information collection were not conducted or conducted less frequently, BIS would not issue the duplicate license or authorize the transfer of a license, which would adversely affect businesses that have changed ownership or lost a license. The worst case is that there would be a violation of export control

regulations. This assumes that exports were made without a license, either because the licensee (respondent) failed to obtain a duplicate license, or transfer of ownership of a license or licenses of another party.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no circumstances that require the information collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

8. Provide information of the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The notice requesting public comment was published in the Federal Register on June 17, 2009, pp. 28664. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

Not Applicable.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Section 12(c) of the EAA provides for the confidentiality of export licensing information submitted to the Department of Commerce.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

There are **38 annual burden hours** associated with this collection of information. Of these, 27 hours support duplicate license requests; the remaining 11 support transfer of license ownership, as follows:

Transfer: There are 11 burden hours associated with this portion of the collection of information. This figure is based on the following annual burden estimates:

10 Written request from transferor (15 minutes each) =	2.5 hours
10 Signed letter from transferee (30 minutes each) =	5 hours
10 Instances of Recordkeeping (6 minutes each) =	1 hour
10 Instances of gathering additional proof (legal documents)	2.5 hours

Total Burden Hours = 11 hours

Duplicate: This figure is based on approximately 100 respondents annually, taking 15 minutes to review the instructions, write the request for a duplicate license and mail it to BIS = **25 hours**. There is 100 minutes of recordkeeping, based on 1 minute each for 100 respondents, rounded up to **2 hours**. **Total Burden Hours = 27 hours**.

The cost to the respondents requesting transfer of licenses is approximately \$1,140 annually. This is based on 38 hours at a salary of \$30 per hour.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

There are no startup or capitol equipment costs associated with this collection of information.

14. Provide estimates of annualized cost to the Federal government.

The total estimated cost to the Federal Government is \$1,950. It is estimated that the annual cost to process requests to transfer licenses is \$450, and the annual cost to process requests for a duplicate license is approximately \$1,500.

Transfer: This is based on an average time of one and one-half hours at \$30 per hour to process 10 requests for transfers of licenses. These 10 requests include approximately 30 individual licenses.

$$90 \text{ minutes} \times 10 \text{ request} = 15 \text{ hours} \times \$30/\text{hr} = \$450$$

Duplicate: This is based on an average time of one half hour at a salary of \$30 per hour, for processing 100 letters of request for duplicate licenses. This amount includes the salaries of licensing and support personnel.

$$30 \text{ minutes} \times 100 \text{ requests} = 50 \text{ hours} \times \$30/\text{hr} = \$1,500$$

15. Explain the reasons for any program changes or adjustments.

The adjustment decreases in the number of respondents and cost are corrections from the previous submission.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans to publish this information for statistical purposes.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.