

SUPPORTING STATEMENT

This filing contains the information required by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520, and 5 C.F.R. Part 1320.

A. Justification.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The accompanying OMB 83-I application is submitted to extend the information collection authority pertaining to the Office of Foreign Assets Control (“OFAC”)’s Reporting, Procedures and Penalties Regulations set forth in 31 CFR part 501. These regulations are implemented pursuant to the Trading With the Enemy Act (50 U.S.C. App. 1-44), the International Emergency Economic Powers Act (50 U.S.C. 1701 - 1706), and the United Nations Participation Act (22 U.S.C. 287c), and other laws. The collections of information relevant to this request are contained in §§ 501.601 through 501.605, 501.801 and 501.804 through 501.807 and pertain to the operation of various economic sanctions programs administered by OFAC under 31 CFR chapter V. Section 501.601 relates to the maintenance of records and § 501.602 relates to OFAC demands for information relative to any transaction or property subject to the provisions of 31 CFR chapter V. Section 501.603 imposes reporting requirements pertaining to blocked assets and retained funds transfers. This information is required by OFAC to monitor compliance with regulatory requirements, to support diplomatic negotiations concerning the targets of sanctions, and to support settlement negotiations addressing U.S. claims. Section 501.604 requires the filing of reports for compliance purposes by U.S. financial institutions where a funds transfer is not required to be blocked but is rejected because the underlying transaction is otherwise prohibited. Section 501.605 requires reporting of information pertaining to litigation, arbitration, and other binding alternative dispute resolution proceedings in the United States to prevent the intentional or inadvertent transfer through such proceedings of blocked property or retained funds. Sections 501.801 and 501.804 through 501.805 relate to license requests; rulemaking; and document requests. Section 501.806 sets forth the procedures to be followed by a person seeking to have funds released at a financial institution if the person believes that the funds were blocked due to mistaken identity. Section 501.807 sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation or that of a vessel as blocked, or who wish to assert that the circumstances resulting in the designation are no longer applicable. Copies of §§ 501.601 through 501.605, 501.801, and 501.804 through 501.807 are included as Attachment 1.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information collected is used by OFAC to implement blocking, licensing, compliance, and civil penalty, and enforcement programs pursuant to 31 CFR chapter V. OFAC has used

information reported on blocked and rejected funds transfers to enhance compliance with U.S. sanctions and as a basis for assisting U.S. Government dealings with other countries. Information submitted in applications for specific licenses is used by OFAC to determine whether to authorize particular transactions that would otherwise be prohibited under 31 CFR chapter V. It would be impossible to authorize such exceptions without requiring those parties requesting them to submit the basic facts supporting their requests. Without the ability to make such exceptions from the broad prohibitions contained in 31 CFR chapter V, OFAC would not be able to exercise reasonable discretion in administering economic sanctions programs.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The information is generally reported to OFAC by letter. For example, requests with respect to general and specific licenses are received from the public in letter form. Information collected from U.S. financial institutions, however, is collected increasingly by automated, electronic, and computerized means. Annual reports required under §501.603(b)(2) are submitted via form TDF 90-22.50.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2. above.

Generally, the information that OFAC requires pertains to individual transactions and is not available other than through a specific report. Each individual report of information provided is of a limited nature, separate, and unique. Thus, there is no duplication of records. Each item is based upon a new occurrence pertaining to a designated entity or blocked transaction.

U.S. financial institutions, however, are required to make individual reports on assets that they have blocked within 10 days from the blocking and are also required to report on an annual basis all blocked property under their control. The annual report is not merely a duplicate of the information previously reported. Because OFAC periodically issues general licenses allowing the unblocking of property without a need to make a specific request to OFAC, only through the annual reporting requirement can OFAC be apprised of the actual status of blocked property. Current information is required for the purpose of the Department of the Treasury's congressionally mandated annual report on terrorist assets as well as for U.S. foreign policy purposes concerning negotiations with impacted countries.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

The information collection may affect a limited number of small businesses or other small entities that hold blocked assets or engage in transactions prohibited, unless otherwise authorized, by the individual parts in 31 CFR chapter V. In the licensing area, the application procedures are simple, and the average time required to complete a license application is two hours. The recordkeeping requirement imposed by § 501.601 is minimal, because the records required to be

maintained should already be maintained under standard business practices.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information collected is used primarily by the Treasury Department for licensing, compliance, and civil penalty and enforcement purposes. This information is used to authorize transactions consistent with policy, and to prevent the transfer through U.S. financial institutions of funds in support of target governments and persons. Without these collections of information, the President's Executive orders cannot be carried out.

Generally, the information could not be collected less frequently unless it was not collected at all. For example, the need for information required to request a specific license arises only at the time an applicant determines such a license is necessary. Persons availing themselves of certain general licenses may be required to file reports and statements in accordance with the instructions specified in those licenses. With regard to the individual and annual reports on the blocking of property, if the information were not collected or were collected less frequently, OFAC would have no means of tracking the compliance of U.S. financial institutions and their customers with U.S. economic sanctions.

7. Explain any special circumstances that require the collection to be conducted in a manner:

- X *requiring respondents to report information to the agency more often than quarterly;*
Respondents are required to report information on a transaction-by-transaction basis and on an annual basis. Prompt reporting of individual blockings and rejected transfers is necessary for OFAC to maintain effective compliance and enforcement.
- X *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
OFAC requires that reports on blocked or rejected transactions be submitted within 10 days of the blocking or rejection. A 30-day requirement would be insufficient for the foreign policy purposes underlying the economic sanctions. In addition, because OFAC frequently receives requests to unblock property shortly after it has been blocked, it is essential for the blockings to be reported to OFAC as soon as possible. OFAC requests for information in the enforcement context may require a response in less than 30 days when the information requested is needed immediately for OFAC to adequately enforce U.S. economic sanctions.
- X *requiring respondents to submit more than an original and two copies of any document;*
No such requirement exists.
- X *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*
Part 501 requires respondents to retain records for five years from the date of a restricted transaction or from the date that blocked property is unblocked. Under § 501.601, the requirement for five years of record retention beyond a transaction corresponds to the

statute of limitations set forth in 28 U.S.C. 2462.

- X *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
The information collections are not part of a statistical survey.
- X *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
Not Applicable.
- X *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use;*
No assurances of confidentiality are given other than with respect to reports of blocked property, as indicated in OFAC's regulations. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act.
- X *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*
Reports of blocked property are received on a confidential basis. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

A copy of the *Federal Register* Notice of May 22, 2009, 74 FR 24074, soliciting comments is included as Attachment 2. OFAC received no comments.

Describe 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 record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

We solicited comments through the *Federal Register* notice referenced above and received no response. In addition, OFAC has substantial contact with various individuals and groups seeking to comply with OFAC's regulations. Through these contacts OFAC is able to develop an appreciation of the impact of the information collections necessitated by economic sanctions. OFAC's Licensing Division is in daily contact with applicants for specific licenses under the various programs it administers. Licensing officers routinely discuss the information required to

process comparable applications with applicants. Since the procedures are informal, arrangements to minimize the burden to applicants, while allowing OFAC to make sound decisions, are constantly being negotiated. In addition, the Compliance Division, which possesses substantial expertise in the area of banking and financial transactions, maintains similar contacts with financial institutions. Over thirty years of such daily contacts have streamlined procedures and assisted OFAC in obtaining a detailed understanding of the burdens its procedures impose on applicants.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that mitigate against consultation in a specific situation. These circumstances should be explained.

Not applicable.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Respondents receive no payment or gifts for providing information to OFAC.

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

No assurances of confidentiality are given to persons who furnish information to OFAC unless specifically indicated in advance. Reports of blocked property are received on a confidential basis pursuant to OFAC's regulations. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act.

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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

OFAC makes no requests for sensitive information of the type described above.

12. Provide estimates of the hour burden of the collection of information. The statement should:

X Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

The anticipated number of respondents is approximately 13,125. While the vast majority of these respondents will submit information to OFAC one or two times per year, larger financial institutions make many more submissions. Roughly 27,000 responses are expected annually during the coming three years. The total number of burden hours is anticipated to be 33,750. This estimate is based on time required to provide the information varying from 30 minutes to 10 hours, depending on individual circumstances, with an average of 1.25 hours. These estimates stem from past experience in previous and ongoing programs.

The burden and numbers of respondents and responses stemming from the new forms for which OFAC is seeking clearance by the Office of Management and Budget is already accounted for in the burden allocated for this Information Collection Request. Therefore, there should be no burden increase as a result of these new forms. In order to properly reflect that no change in burden has occurred, OFAC had to make adjustments to the time burden and cost burden reflected in the ROCIS entry for Form TD-F-90.22.50. The ROCIS entry for Form TD-F-90.22.50 is used to capture the remainder of respondents, responses, time burden and cost burden under OMB Control Number 1505-0164 not reflected in the ROCIS entries for each of the new forms.

X If the request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

Most of the information collections under OMB authorization 1505-164 do not involve the use of forms. For the purposes of the annual reports of financial institutions, Form TDF 90-20.55 is used. Roughly 250 financial institutions use this form on an annual basis, taking an average of four hours to complete it.

X Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

Of the 27,000 estimated responses, a great majority are processed quickly by individuals acting on their own behalf or by clerk-level administrators in large financial institutions. OFAC estimates the cost per burden hour of the anticipated 33,750 burden hours to be \$10 per hour, for a total cost of \$337,500.

13. Provide an estimate of the total annual cost burden to respondents or record-keeper resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

X The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and

technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

For larger financial institutions, there may be capital, operating, and maintenance costs associated with products such as interdiction software used to maintain compliance with U.S. sanctions laws. Nevertheless, any capital or operating costs associated with the actual collection of information to be submitted to OFAC are assumed to be minimal.

X If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

Not applicable.

X Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Not applicable.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from paragraphs 12, 13, and 14 in a single table.

There is no cost to the U.S. Government attributable to this information collection effort that would not have been incurred without the paperwork burden.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

This submission is being made for renewal purposes. The estimated 27,000 annual responses cited in Item 13(b) represents a 5,750 annual response increase from the 21,250 annual responses provided for in the change request filed in 2008 for 31 CFR part 501. This change is the result of an expected increase in the number of annual reports submitted pursuant to § 501.603 based on trends from the past 3 years and stems from expanded OFAC sanctions programming. The corresponding increase in total annual hours requested to 33,750 hours, cited in Item 13(c),

reflects the additional hours expected due to the increase in § 501.603 annual reports.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Results will not be published.

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

Not applicable.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.