

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSIONS**

**Voluntary Disclosures
OMB 1405-0179
No Form**

A. Justification

1. The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), has the principal missions of taking final action on license applications and other requests for defense trade transactions via commercial channels, ensuring compliance with the statute and regulation and collecting various types of reports. By statute, Executive Order, regulation, and delegation of authority, DDTC is charged with controlling the export and temporary import of defense articles, the provision of defense services and the brokering thereof which are covered by the U.S. Munitions List.

Section 127.12 ITAR encourages the voluntary disclosure of information to DDTC by persons who believe they may have violated any export control provision of the AECA, ITAR, and/or any order, license, or other authorization issued under the AECA. The information is analyzed by DDTC to determine whether to take administrative action concerning any violation that may have occurred. Voluntary disclosure may be considered a mitigating factor in determining the administrative penalties, if any, that should be imposed. Failure to report a violation may result in circumstances detrimental to the U.S. national security and foreign policy interests and will be an adverse factor in determining the appropriate disposition of such violations. Also, the activity in question might merit referral to the Department of Justice for consideration whether criminal prosecution is warranted. In such cases, DDTC will notify the Department of Justice of the voluntary nature of the disclosure, but the Department of Justice is not required to give that fact any weight.

Notification of violation(s) must be in writing and should include the following information and any supporting documentation:

(i) A precise description of the nature and extent of the violation(s) (e.g., an unauthorized shipment, doing business with a party denied U.S. export privileges, etc.);

- (ii) The exact circumstances surrounding the violation(s) (a thorough explanation of why, when, where, and how the violation(s) occurred);
- (iii) The complete identities and addresses of all individuals and organizations, whether foreign or domestic, involved in the activities giving rise to the violation(s);
- (iv) License numbers, if applicable;
- (v) U.S. Munitions List category and subcategory, product descriptions, quantities, and characteristics of the commodities or technical data involved;
- (vi) A description of any corrective actions already undertaken, which must include new initiatives implemented directly in response to the voluntary disclosure to deter that specific violation occurring again; and
- (vii) The name and address of the person(s) making the disclosure and a point of contact, if different, should further information be needed.

A certification must be submitted stating that all of the representations made in connection with the voluntary self-disclosure are true and correct to the best of the person's knowledge and belief. Certifications made by a firm, corporation, or any other organization are to be executed by an empowered official or by a senior officer.

2. DDTC uses the information to analyze whether the activity in question might merit penalties, administrative actions, sanctions, or referral to the Department of Justice for consideration whether criminal prosecution is warranted.
3. Currently, there is no option of electronic submission of this information. Submissions are made via hardcopy documentation. Applicants are referred to ITAR §127.12 for guidance on what information to submit in a voluntary disclosure. DDTC is assessing various options for the electronic submission of voluntary disclosures. Discussions are at the planning stage; there is no draft form available yet.
4. The method of preparation and submission by private industry generally precludes duplicate submissions.
5. The AECA and ITAR are applicable equally to large and small businesses or entities, U.S. or foreign. Only persons that believe they may have violated a defense trade control provision of the AECA, ITAR, and/or order, license, or other authorization issued under the AECA would submit a voluntary disclosure.

6. The absence of this provision for reporting possible violations of defense trade control laws, regulations, or authorizations would deprive those in the defense trade business of accounting for their violations, and would hinder DDTC's mission of ensuring civil compliance with statute and regulation.
7. Respondents would only report the information on occasion of a possible violation. The ITAR recordkeeping provision does not specify a time period for retention of this particular record.
8. The Department has published a notice in the *Federal Register* (75 FR 52796) in accordance with 5 CFR 1320.8(d) soliciting public comments on this collection and notifying the public that this collection has been submitted to OMB for review and approval. No comments were received.
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 or temporarily importing defense articles/services or brokering thereof, have registered with DDTC pursuant to the ITAR (22 CFR Subchapter M), 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 protection of confidentiality given to respondents' information. Other than provisions for confidentiality or nondisclosure included in the Freedom of Information Act, the ITAR, or other Federal regulations, no promises of confidentiality have been made to the respondent.
11. Not applicable. This collection does not solicit 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 for voluntary disclosures is collected by respondents as an aspect of their customary and usual business practices. The number of respondents on an annual basis is estimated to be 750. Frequency of response is on occasion. The Department estimates that the respondent would need approximately 10 hours to complete the written submission. Consequently, one can reasonably assume that cost to industry in terms of money and other resources is minimal. The Department estimates that the annual hour burden is 10,000 hours.
13. There are no anticipated additional costs to respondents.

14. The estimated annualized cost to the Federal Government for reviewing and taking action on the 1,000 voluntary disclosure submissions received by DDTC during CY 2009 was \$278,000. This corresponded to approximately 1% of DDTC's budget of \$28 million.

15. For Item 13(a) of OMB Form 83-I, "Number of Respondents," has been adjusted from 400 to 750, and 13(b), "Total Annual Responses," has been adjusted from 400 to 1,000. The changes reflect the increase in respondents who have used the information collection. As a result of the latter change, "Total Annual Hours Requested" (Item 13(c)) has been adjusted from 4,000 to 10,000.

16. Not applicable. Publication of the relevant information is not anticipated.

17. DDTC is seeking approval to not display the expiration date for OMB approval. The respondent's information is not provided on a formal collection instrument, but rather on respondent's letterhead. Communication between DDTC and a respondent exists as an exchange of written information. Information from the respondent is sent to DDTC as a report detailing violations, and DDTC sends a written reply to the respondent.

18. Not applicable. The Department of State does not seek any exception to the statement, "Certification for Paperwork Reduction Act Submissions," of OMB 83-I.

B. Collections of Information Employing Statistical Methods

Not applicable. This collection of information does not employ statistical methods.