SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSION

Request for Approval of Manufacturing License Agreements, Technical
Assistance Agreements, and Other Agreements
OMB No. 1405-0093

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 regulations, 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.

Under the AECA, the President is charged with the review of munitions license applications and technical assistance and manufacturing license agreement requests to determine, *inter alia*:

- Whether the transactions further U.S. foreign policy objectives, national security interests, and world peace;

- Eligibility of parties (*e.g.,* applicants, consignees, end-users) to participate in U.S. defense trade;

- Appropriate end-use of commodities subject to U. S. Government approval of munitions exports and transfers;

- Whether law enforcement concerns have been adequately addressed; and

- Whether appropriate offers or payment of political contributions, gifts, commissions, and fees, have been adequately addressed.

The statutory authority of the President to promulgate regulations with respect to the export and the temporary import of defense articles and the provision

of defense services was delegated to the Secretary of State by Executive Order 11958, as amended. These regulations are primarily administered by the Deputy Assistant Secretary of State for Defense Trade and the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs.

In accordance with Part 124 of the ITAR, any person who intends to furnish defense services or technical data to a foreign person must submit a proposed technical assistance or manufacturing license agreement and obtain prior approval for such agreement. Amendments to existing agreements must also be submitted for approval.

2.   DDTC uses the information provided by applicants to meet the mandate described in item 1 above. The request for approval of an agreement is used initially by DDTC to analyze the proposed agreement for foreign policy and national security considerations. Depending upon its complexity, it is sometimes necessary to coordinate further evaluation of the proposed agreement with other Federal Government agencies. The information is also used to monitor and control transfer of sensitive U.S. technology. Without such information, effective control of the proliferation of sensitive military technology would not be possible.

3.   Currently, respondents are instructed to use form DSP-5 as the vehicle for submitting an agreement. The DSP-5 must be submitted electronically via the electronic licensing subsystem (D-Trade) of the Defense Trade Application System, DDTC's Web-based electronic form system. The required documentation comprising an agreement is appended to the DSP-5 as attachments. DDTC is assessing options for a permanent electronic agreements form.

4.   The Department of State is unaware of any other U.S. Government requirements that would cause U.S. industry to duplicate this reporting requirement.

5.   Export control law and regulations are designed to safeguard U.S. Government foreign policy and national security interests and to further world peace. The law and regulations are applicable equally to large and small businesses or entities. Only registered exporters are required to submit proposed agreements for approval when intending to furnish defense services or technical data to a foreign person.

6.   The AECA and the ITAR established the frequency of information collection. The information required for the proper assessment of an agreement

request is reviewed on a case-by-case basis and is specific to the transaction under consideration. Absent this reporting requirement, it would be extremely difficult for DDTC to meet its legally mandated responsibilities to ensure oversight of defense trade exports in furtherance of foreign policy objectives, national security interests, and world peace.

7. Respondents may have to report information to the Department more often than quarterly because they need approval on a case-by-case basis when seeking to furnish defense services or technical data to a foreign person. Also, registrants are required to maintain records for longer than three years. The ITAR requires maintenance of records for a minimum period of five years from the expiration of the license or written approval.

8. The Department will publish a notice in the *Federal Register* 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.

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 §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. The agreement guidelines do 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 that is required for the agreement assessment process is already available to respondents in some form due to other needs and requirements (e.g., business transactional records, tax records, quality assurance and productivity, and legal issues posed by other federal laws). An estimated 8,200 annual responses are expected from 650 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately two hours. 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 16,400 hours.

13.   There are no anticipated additional costs to respondents.

14.   The 8,200 responses received by DDTC during CY 2010 accounted for approximately 6.7% of its budget of $36 million. The estimated annualized cost to the Federal Government was $2,412,276 for reviewing these export applications.

15.   Item 13(a) of OMB Form 83-I, "Number of Respondents," has been adjusted from 680, the previously estimated number of registrants who seek to furnish defense services or defense technical data to foreign persons, 650, the most recent estimate. Item 13(b), "Total Annual Responses," has been adjusted from 9,600 to 8,200. Consequently, "Total Annual Hours Requested" (Item 13(c)) has been adjusted from 19,200 to16,400. There are no changes to Item 14.

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

17.   DDTC intends to display the expiration date for OMB approval of the information collection when an agreements form is available to respondents.

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

B. Collections of Information Employing Statistical Methods

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