

**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 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.

ITAR §127.12 encourages the voluntary disclosure of information to DDTC by persons who believe they may have violated any export control provision of the

AECA, ITAR, 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 may 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 of 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 include the following information and any supporting documentation: 1) A precise description of the nature and extent of the violation(s); 2) The circumstances surrounding the violation(s); 3) The complete identities and addresses of all individuals and organizations, whether foreign or domestic, involved in the activities giving rise to the violation(s); 4) License numbers, if applicable; 5) Description of the articles involved in the violation(s); 6) A description of any corrective actions already undertaken; 7) The name and address of the person(s) making the disclosure and a point of contact, if different, should further information be needed; and 8) A certification 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 possible prosecution.

3. Currently, there is no option of electronic submission of this information. Submissions are made via hardcopy documentation. Applicants should consult ITAR §127.12 for guidance on what information to submit in a voluntary disclosure. Pursuant to the President's Export Control Reform initiative, DDTC has recently adopted the Department of Defense's USXports electronic licensing system, which does not accommodate this information collection. Once initial transition to USXports is completed, the focus of which is on information collections that are already fully electronic and more frequently used by the defense industry, DDTC will review the possibility of incorporating other information collections into that system, to include this information collection.

4. The Department of State is unaware of any other U.S. Government requirements for the submission of this information.
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 persons that believe they may have violated a defense trade control provision of the AECA, ITAR, or order, license, or other authorization issued under the AECA would submit a voluntary disclosure. Burdens have been minimized as much as possible.
6. The absence of this provision for reporting possible violations of defense trade control laws, regulations, or authorizations 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 requires maintenance of records for a minimum period of five years.
8. The Department has published a notice in the *Federal Register* (78 FR 52996) 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. The Department did not receive any comments during the comment period.
9. 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 ITAR §126.10, 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 statutes or regulations, no promises of confidentiality have been made to the respondent.
11. 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 that is required for submitting voluntary disclosures is collected by respondents as part of their customary and usual business practices. Therefore, the additional cost to industry in terms of money, time, and other resources is minimal. Frequency of response is on occasion. An estimated 1,500 annual responses are expected from 850 respondents. The average time a respondent devotes to each submission is estimated to be 10 hours. Therefore, the estimated annual hour burden is 15,000 hours.

13. There are no anticipated costs to respondents.

14. Reviewing the 1,500 responses received by DDTC during CY 2012 accounted for approximately 0.3% of its budget of \$36 million. The estimated annualized cost to the Federal Government was \$112,000. That figure is an estimate based on the total number of responses to all of the ICs we have, dividing that by the budget, then apportioning cost to the various ICs based on the number of responses received for that IC.

15. “Number of Respondents” has been adjusted from 750 to 850. “Total Annual Responses” has been adjusted from 1,000 to 1,500. The changes reflect the increase in respondents who have used the information collection. As a result of the latter change, “Total Annual Hours Requested” has been adjusted from 10,000 to 15,000.

16. Publication of the relevant information is not anticipated.

17. DDTC will display the expiration date for OMB approval of the information collection on the form.

18. The Department of State does not seek any exception to the certification statement.

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.