

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

Statement of Political Contributions, Fees, and Commissions Relating to Sales of Defense Articles and Defense Services

OMB No. 1405-0025

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 (USML).

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 13637, 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.

Section 39 of the AECA mandates the Secretary of State to require timely reporting of political contributions, gifts, commissions and fees paid, or offered or agreed to be paid in connection with the sales of defense articles or defense services licensed or approved under §38 of the AECA. Pursuant to Part 130 of the ITAR, any license or approval for the export of defense articles and defense services to or for the armed forces of a foreign country or international organization and valued in an amount of \$500,000 or more requires a statement to be submitted specifying whether any political contributions, fees or commissions of \$1,000 or more were offered or agreed to be paid in connection to that specific sale. This statement must accompany the export license application or other request for approval, such as a manufacturing license agreement or technical assistance agreement. In the event there were political contributions, fees or commissions offered or agreed to be paid, those statements are reported to Congress in accordance with §§36(a)(8) and 36(b)(1) of the AECA.

2. DDTC uses the information provided by applicants to meet the mandate described in item 1 above. This information is currently used in the review of license applications, requests for manufacturing license agreements or requests for technical assistance agreements submitted for approval and to ensure compliance with defense trade laws and regulations. Any statements that indicate that political contributions, fees or commissions were offered or agreed to be paid are reported to Congress.

3. The applicant can indicate on the DSP-5 or the DSP-85 that no political contributions, fees or commissions were offered or agreed to be paid in connection with the sale when submitting these forms. When the applicant does report that a political contribution, fee, or commission was offered or agreed to be paid, a written and signed statement containing specified information as directed in §130.10 of the ITAR must accompany the application. In the case of the DSP-5, the letter must be submitted electronically as an attachment to the form. In the case of a DSP-85, the letter is submitted in paper form.

4. Information provided about political contributions, fees and commissions regarding commercial defense exports is not duplicated in other forms. The

information collected is limited to that necessary to properly evaluate a license application or request for an agreement.

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 exporting defense articles or defense services valued in an amount of \$500,000 or more to the armed forces of foreign countries or international organizations are required to submit information about political contributions, fees or commissions.

6. The AECA and the ITAR established the frequency of information collection. The information required for the proper assessment of a proposed defense export to the armed forces of a foreign country or to international organizations valued in an amount of \$500,000 or more 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.

When political contributions, fees or commissions have been offered or agree to be paid, those statements are reported to Congress. Elimination of this collection of information would hinder Congressional oversight of arms exports.

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 export defense articles and/or services and related technical data. 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 has published a notice in the Federal Register (79 FR 66759) 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 §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. This information 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 that is required for reporting political contributions, fees and commissions concerning defense trade is already available to U.S. industry 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 1,900 annual responses are expected from approximately 750 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each written submission is approximately one hour. 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 1,900 hours. According to the U.S. Department of Labor Bureau of Labor Statistics website (www.bls.gov), the weighted wage rate category for a "Compliance Officer" is estimated to be \$44.94 per hour (\$32.10 average wage x 1.4 multiplier). Therefore, the estimated annual burden hour cost to respondents "all occupations" is \$85,386 (1,900 annual burden hours x \$44.94).

13. There are no anticipated additional costs to respondents.

14. The 1,900 responses received by DDTC during CY 2013 accounted for approximately 1.6% of its budget of \$36 million. The estimated annualized cost to the Federal Government was \$576,000 for reviewing these statements. This figure is based on the number of subject submissions received as a percentage of the overall submissions (e.g. licenses and agreements) provided to DDTC.

15. Number of respondents, has been adjusted from 800 to 750. Total annual responses, has been adjusted from 2,000 to 1,900. Percentage of responses collected electronically has been adjusted from 80% to 100%. Total annual hours

requested has been adjusted from 2,000 to 1,900. There are no changes to Item 14. The changes in these figures are due, respectively, to the decreased volume of submissions due to Export Control Reform as well as the practice of fully electronic collection.

16. We will not publish relevant information.

17. The Department of State proposes that an expiration date for OMB approval of the statement regarding political contributions, fees or commissions not be displayed as the provision is part of a respondent's overall ITAR submission, which is several pages long and includes other forms that do display the same expiration date regarding OMB approval. Industry fulfillment of this requirement results in unique submissions that are unique in format.

18. The Department of State does not seek any exception to the statement, "Certification for Paperwork Reduction Act Submissions."

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.