

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

Maintenance of Records by Registrants OMB No. 1405-0111

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

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.

To help meet this mandate, the Department of State has promulgated ITAR provisions (§§122.5 and 129.4 of the ITAR) to require that all persons subject to registration maintain records on defense trade-related transactions and make them available for U.S. Government review. Elimination of this provision would seriously undermine the U.S. Government's ability to enforce the AECA.

2. DDTC uses the information provided by registrants to meet the mandate described in item 1 above. As appropriate, such information may be shared with other U.S. Government entities. This information is currently used in the review and action on registration requests and in the review of munitions export and brokering license applications and to ensure compliance with defense trade laws and regulations.

3. The provision is a record keeping requirement. While the Department of State has reason to believe, on the basis of informal discussions with U.S. industry, that much of this information is maintained in electronic files, it does not intend at this time to mandate the methods industry uses to maintain its records of defense trade-related transactions, so long as records are maintained in a fashion accessible to the U.S. Government, which might include methods other than electronic. Thus, record keeping as required by the ITAR can be fulfilled with hard copy documentation.

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 persons in the business of manufacturing or exporting defense articles, defense services and related technical data are required to register and are thus subject to this record keeping provision.

6. Absent this record keeping 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. 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, are required to register 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. The regulatory requirement of records maintenance pertains to Form DS-2032, "Statement of Registration," which requests information of a sensitive nature or commonly considered private (i.e., social security number and date of birth). All persons in the business of manufacturing or exporting defense articles, defense services, and related technical data must register with the Department of State, and maintain records of such registration.

12. The Department of State has reason to believe that the information that is required for maintenance of records 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). It is estimated that the 9,100 respondents devote approximately 20 hours per annum to this recordkeeping requirement. 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 182,000 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 \$8,179,080 (182,000 annual burden hours x \$44.94).

13. There are no anticipated additional costs to respondents.

14. DDTC reviewed the records of 720 registrants in CY 2013. These reviews account for approximately .6% of its budget of \$36 million. The estimated annualized cost to the Federal government was \$220,635 for reviewing these records. This figure is based on an approximation of the typical volume of record collections for review by DDTC personnel, as a percentage over the overall licensing workload and resultant budget allocation. Record review is conducted on an as-needed basis at the determination of DDTC personnel, while the overall DDTC workload is overwhelmingly devoted to reviewing license applications and enforcing the provisions of the ITAR.

15. Item 13(a) of form DS-83-I, “Number of Respondents,” has been adjusted from 9,600 to 9,100. Item 13(b), “Total Annual Responses,” has been adjusted to 9,100. Consequently, “Total Annual Hours Requested” (Item 13(c)) has been adjusted to 182,000. There are no changes to Item 14. The change in figures appears to accord with the trend of decrease in defense trade licensing pursuant to Export Control Reform.

16. The Department will not publish relevant information.

17. The Department of State proposes that an expiration date for OMB approval of the information collection not be displayed, as this is a recordkeeping requirement and does not involve the use of a form.

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.