

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 (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.

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 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 the arms export statutes and regulations.
7. Respondents only report the information on the occasion of a possible violation. The ITAR requires maintenance of records for a minimum period of five years.
8. The Department publish a notice in the *Federal Register* in accordance with 5 CFR §1320.8(d) on June 2, 2015 (80 FR 31446). No comments were received.
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 required 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 1,300 annual responses are expected from 750 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately 10 hours. The estimated annual hour burden is 13,000 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 \$584,220 (13,000 annual burden hours x \$44.94).

13. There are no anticipated costs to respondents.

14. The 1,300 responses received by DDTC during CY 2014 accounted for approximately 0.3% of its budget of \$36 million. The estimated annualized cost to the Federal Government was \$108,000 for reviewing these applications. This estimated figure was determined by identifying the increase in submissions since the last reauthorization of this collection, and comparing the resulting figure to the overall budget.

15. The number of respondents has been adjusted from 850 to 750, the most recent estimate. Total annual responses have been adjusted from 1,500 to 1,300. Consequently, total annual hours requested have been adjusted to 13,000. The revised respondent number is based on a more accurate figure taken directly from the DDTC database.

16. The Department will not publish the information collected.

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.